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IN THE MATTER of the Public Inquiries Act, R.S.A. 1970 C.296 and amendments thereto

AND IN THE MATTER of the Public Inquiry by A.M. Harradence, Q.C., pursuant to Order in Council 1295/73 dated August 21, 1973 into the alleged use of excessive force by Correctional Officers upon inmates of the Calgary Correctional Institution during the evening of July 17, 1973 and any other similar instances.

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PUBLIC INQUIRY

Proceedings taken in the Club Room at the Jubilee Auditorium, Calgary, Alberta, commencing on the 1st day of October A.D. 1973.

Volume VI

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PROCEEDINGS TAKEN ON OCTOBER THE 10TH 1973 AT 10:00 A.M.:

VINCENT OLIVER UPTON, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Upton, you are a Correction Officer 1 at the Calgary Correctional Institution?

A Yes, sir.

Q How long have you been so employed?

A It will be three years on the 31st of May, sir.

Q Were you on duty on July 17th 1973?

A Yes, sir.

Q What shift were you on that day?

A The 4:00 to 12:00 shift, sir.

Q What were your responsibilities? Where were you stationed?

A I was stationed in "B" Range of the Cell Block.

Q And on the evening of July 17th did you have opportunity to observe four inmates who were brought out of the West Wing?

A I did, sir, yes.

Q What did you observe?

A At approximately 10:30, sir, I was down at the guardroom typing out charges in another incident. After I had finished I was told by the guardroom to come down to relieve Mr. Peterson at the South Wing for coffee. I went there, as I say, approximately 10:30, and approximately 10:45 a group of officers headed

PROCEEDINGS TAKEN ON OCTOBER 2ND 1970 AT 10:00 A.M.:

VINCENT OLIVER DUNN, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Dunn, you are a Correction Officer I at the Calgary Correctional Institution?

A Yes, sir.

Q How long have you been so employed?

A It will be three years on the 31st of May, sir.

Q Were you on duty on July 11th 1970?

A Yes, sir.

Q What shift were you on that day?

A The 4:00 to 12:00 shift, sir.

Q What were your responsibilities? Where were you stationed?

A I was stationed in "B" Range of the Cell Block.

Q And on the evening of July 11th did you have opportunity to observe four inmates who were brought out of the Maze Bldg?

A I did, sir, yes.

Q What did you observe?

A At approximately 10:30, sir, I was down at the guards room typing and changes in another location. After I had finished I was told by the guards to come down to relieve Mr. Peterson at the Death Wing for coffee. I went there, as I say, approximately 10:30, and approximately 10:45 a group of officers headed

by Mr. Schlegel went to the West Wing. Maybe two or three minutes later four inmates came out and stood beside the grill gate going towards the South Wing.

Q Would you at this time be in cubicle of the South Wing?

A I was, sir, yes.

Q Could you see into the hall?

A Yes, sir.

Q That is the hall that leads from the West Wing?

A Past the Southeast Wing, sir.

Q You saw these four inmates come out and they stood there?

A They stood there, sir.

Q What did you observe?

A Mr. Schlegel came out of the west door a few seconds later and I seen the four inmates milling around Mr. Schlegel and there was quite a bit of shoving going on.

Q Did you observe Mr. Schlegel strike any of the inmates?

A No, sir.

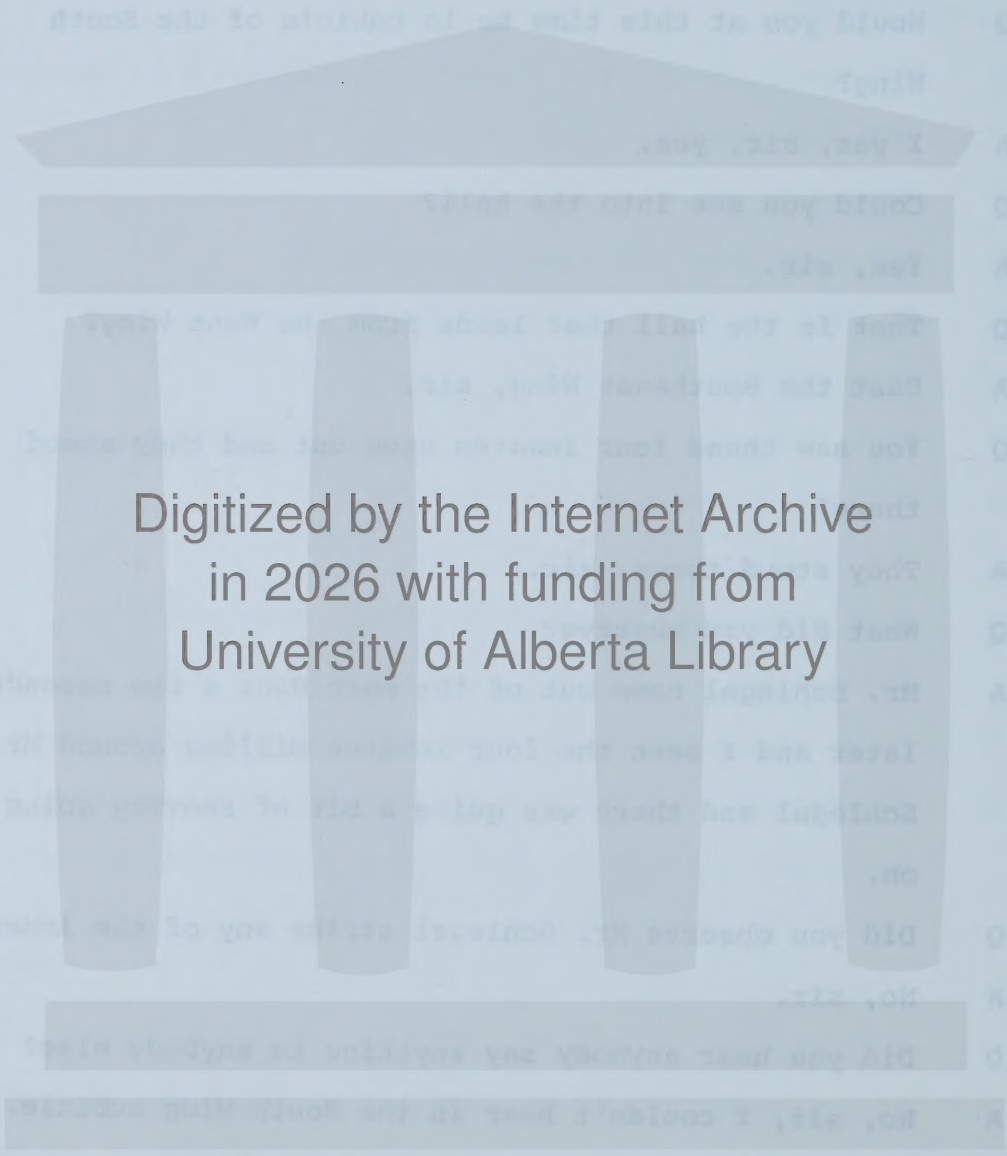
Q Did you hear anybody say anything to anybody else?

A No, sir, I couldn't hear in the South Wing cubicle. All I could see was maybe lip movement.

Q There was some shoving going on?

A There was, sir.

Q Between whom?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A Between the four inmates and Mr. Schlegel.

Q How long were they there in your view?

A I would say approximately two minutes and then a group of other officers came out of the West Wing then, and it was as soon as they came out that these inmates started running towards the guardroom towards the cell block.

Q Did you observe anything else with respect to these four inmates that night?

A No, sir.

MR. PEACOCK: Those are all the questions I have. Would you answer the questions of other counsel, please.

THE COMMISSIONER: Mr. Macdonald?

CROSS-EXAMINATION BY MR. MACDONALD:

Q You say you were in the cubicle of the South Wing, is that correct?

A Yes, sir.

Q Does that bail out into the hallway?

A It does, sir.

Q Just what were those four inmates doing to Mr. Schlegel?

A It appeared to me they were shoving him around, sir.

Q Swinging their fists at him?

A No, I did not say swinging their fists, I said shoving, sir.

Q Each one took a turn at shoving?

A I couldn't say whether they all took a turn because, as I pointed out, they were all milling around there.

Q Isn't it fair that all you could see was people milling around?

A That's right, sir.

Q You are guessing when you say shoving?

A I said they appeared to me to be shoving. I did not say they were shoving.

Q To be fair, then, it was just people milling around down the end of the hall, that's all you saw?

A Yes, sir.

MR. MACDONALD: Thank you.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: No questions, sir.

EXAMINATION BY THE COMMISSIONER:

THE COMMISSIONER: Was Mr. Schlegel alone at that time, sir?

A For a minute or two, I would say about a minute, sir.

Q Did you see other officers in view at that time?

A Not at the moment, until maybe a minute or so later a group came out of the West Wing, as I said, and the inmates started running towards the cell block.

Q Was Mr. Schlegel surrounded by them?

A Yes, sir.

Q You are sure of that?

A Yes, sir.

Q That's not just an assumption?

A No, sir.

THE COMMISSIONER: All right, thank you.

MR. PEACOCK: Thank you, Mr. Upton. Call Harold Baron, please.

HAROLD ROY BARON, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Baron, you are a Correction Officer 2 at the Calgary Correctional Institution?

A That is correct.

Q How long have you been employed there?

A I am in my seventh year.

Q Were you on duty as such on the evening of July 17th 1973?

A I was.

Q What shift were you working that day?

A 4:00 to midnight.

Q What was your area of responsibility during that shift?

A Main cell block.

Q You were in charge of the main cell block?

A This is correct.

Q Does the guard in charge of the main cell block have a cubicle he stays in?

A Would you repeat that?

Q Were you in a cubicle that night?

A Yes, I was.

Q There is a cubicle in the cell block itself?

A Yes.

Q What level is that cubicle on?

A The first level above the ground floor.

Q That would be the "B" Level?

A The "B" Range Level, yes.

Q And the cell is in the "C" Range one floor below?

A That is correct.

Q Do you recall that night an incident involving four inmates being brought down from the West Wing?

A Yes.

Q Could you tell us what you recall of that evening, please?

THE COMMISSIONER: Mr. Peacock, just to clarify for me, perhaps, you can have this officer show on the diagram where he was at that time.

MR. PEACOCK: Perhaps you could step over to the middle map you can indicate this area. I believe it's in the upper right-hand corner?

THE COMMISSIONER: Perhaps you could show him where it is on that diagram.

Q MR. PEACOCK: That is the cell block?

A That area here, yes.

Q Can you say where your cubicle would have been situated?

A It's at the end of the cell block near the main door.

Q Can you tell us what occurred on the evening of July 17th, please?

A Yes. Approximately 11:30 I looked at my monitor TV camera and I saw four inmates standing outside the main cell block, being clad in shorts, and I opened the door to let them in and Mr. Schlegel approached from the upper corridor and the inmates were led to the punishment cells. As soon as the main door was opened the inmates were put in Punishment Cell 1.

Q Did you go downstairs with the inmates and the guards involved?

A I went ahead of the inmates.

Q I see.

A To open up.

Q And they followed you?

A They followed me.

Q And who followed them?

A Mr. Schlegel.

Q Was he by himself?

A I was ahead, I don't know. At this point I opened the main door and went inside to open No. 1 Cell.

Q Was that No. 1 Cell the only cell that was available that night in the solitary area?

A In this instance, yes.

Q So you opened the door?

A This is correct.

Q What did you observe then?

A I observed the four inmates standing outside the punishment area. They were stripped and told to get into the cell. Each of them did. The cell was locked and we returned to the upper level.

Q At this stage did you observe Mr. Schlegel or any other Correction Officer strike any of the inmates?

A No, there was no inmate struck whatsoever.

Q Did you observe that Mr. Schlegel had a billy club with him?

A I did.

Q Did you see him use it in any way on any inmate down in that area?

A The lead inmate was told to get in there or words to that effect, and pushed. This is all that happened in that area.

Q Was he pushed with the billy?

A Yes.

Q Are you aware that there was no mattress in that cell that night?

A Yes, I was. I took it out, standard procedure when I am putting four men in one cell, I strip the cell until I find out the situation and the stuff is returned.

Q Can you tell me when the mattress was returned that night?

A No, I can't, because prior to reaching the upper level the new shift came on so my information was

passed on to the new shift and I was relieved of my duties.

Q I see. How about the returning of clothes? Were the clothes returned during your shift?

A No, no, they were stripped as the standard procedure.

MR. PEACOCK: Those are all the questions I have. Answer other counsel, please.

MR. STILWELL: No questions.

THE COMMISSIONER: Mr. Macdonald?

CROSS-EXAMINATION BY MR. MACDONALD:

Q Those four inmates arrived, I take it, at the door to the cell block by themselves?

A Yes, they did.

Q You went down and let them in and by the time you got there Mr. Schlegel had arrived?

A This is correct, yes.

Q Was there any resistance on any part of the prisoners in terms of going into Cell No. 1?

A No resistance, they were a bit slow moving, that's all.

Q Are you aware whether there were other cells available in any other particular spot in the Institution where they could have gone? I take it when you say they were all full up that means in terms of the meditation cell?

A All the cell block period was filled up. We were

filled up completely that night.

Q And how about segregation cells?

A I wasn't aware of what was down there at that time.

Q Did anybody ever ask?

A I don't know.

Q They were just tossed into this one cell for punishment purposes?

A This I can't tell you. They were brought down to me and this is the only place available and I used it.

Q There is an opening in the door, is there not?

A This is correct.

Q Was it left open or shut?

A Open.

Q How far?

A One inch, approximately.

Q The dimensions of that cell, can you give them?

A This would only be approximate, I don't know the dimensions. I would say 6 to 7 feet long and approximately 4½ to 5 feet wide.

Q And four men were tossed in there naked, is that right?

A This is correct.

MR. MACDONALD: Thank you.

THE COMMISSIONER: Mr. Clerk, would you show the witness, I believe, Exhibit 23, showing those cells. Are those the cells, Witness?

A This is correct, sir.

EXAMINATION BY THE COMMISSIONER:

Q And that is one shown on the right of the photograph?

A This is correct, sir.

Q You said that you were full up that night. Are you referring to the other cells shown in that photograph?

A I am referring to the other six cells on my right.

Q Yes, on the right of Exhibit 23?

A Yes.

Q Were they all full?

A Yes, they were, sir. At that juncture, at that point we had had another incident. These cells were being used, yes.

Q Do you know where the other incident occurred?

A In the main cell block.

Q What was the incident?

A Cleaners in the cell block.

Q Pardon?

A Cleaners in the cell block had got into some brew.

Q This is the people who went to the hospital?

A Yes, sir.

Q These men had been returned from hospital?

A They were being returned and the cells were being held open.

Q They were being reserved at that time?

A Yes.

Q That's why you were full up?

A Yes.

THE COMMISSIONER: Any questions arising out of that?

MR. MEURIN: No questions, sir.

MR. PEACOCK: I have no questions. Thank you, Mr. Baron.

Commissioner, that is the evidence which we have to put forward with respect to the incident of July the 17th. I think for the record it should be pointed out that in order to make certain that everyone who had something to say with respect to it was given an opportunity notices were posted and Inspector Roberts interviewed all the inmates who responded to the notice as well as all the guards who responded.

THE COMMISSIONER: I would like to have that on record, Mr. Peacock.

MR. PEACOCK: Inspector Roberts, please.

ARTHUR R. ROBERTS, still under his former oath, examined by Mr. Peacock, testified as follows:

Q Inspector Roberts, you have given brief testimony before?

A Yes, sir, I have.

Q You are under oath at this time?

A Yes, sir.

Q When you began your duties with respect to obtaining information for this Inquiry in the terms of reference of the Order in Council can you tell what steps you took to obtain statements from witnesses and to determine who had testimony to advance with respect to this particular incident that we have just heard about?

A Yes. After consultation with Warden Jackson I became aware that certain inmates were involved in this, and also certain staff. As a result of that I interviewed each and every inmate, I asked the names of other inmates who may be able to assist in this regard and wished to give evidence in this regard. I traced some of these inmates to Bowden, and I went up to Bowden and interviewed them, and I may have had as many as five interviews with a chap because I have asked for names of other inmates who may be able to assist this Commission. The same with the staff, on each and every occasion I have asked every member of the staff for the name of any other person involved who might be able to assist in this Inquiry. On each and every occasion I interviewed them and received statements from them, sir.

Q You are aware that a notice was posted in the Calgary Institution?

A Yes, I had a notice posted throughout the Institution

in the dining room in each cell block, every dormitory, and wherever the inmates or staff may be able to see them, and on bulletim boards throughout.

Q Perhaps Inspector Roberts could see Exhibit No. 2, please. Inspector Roberts, would you look at the notice attached as Exhibit "A" to the Affidavit marked as Exhibit 2? Is that the notice that you posted in the various areas you have described?

A Yes, it was, sir, and on the bottom of it I printed please contact Chief Inspector Roberts through any guard. This was done on every occasion that I know of and on each and every occasion I did see that inmate.

MR. PEACOCK: Those are all the questions I have, thank you.

THE COMMISSIONER: Mr. Stilwell?

MR. STILWELL: No questions.

THE COMMISSIONER: Mr. Macdonald?

MR. MACDONALD: No, sir.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: No questions, sir.

EXAMINATION BY THE COMMISSIONER:

THE COMMISSIONER: Chief Inspector, did, throughout your investigation, did it in fact come to light, or were you in any way concerned, with any coercion being exercised either by the inmates or staff with re-

spect to persons testifying?

A No, not directly. On some occasions I could determine a bit of hesitancy on the part of some of the inmates to become involved. However, that was overcome.

Q With your usual tact, I take it. Chief Inspector, on that reluctance, where did you feel it stemmed from?

A From the point of view of the prisoner involved, or the inmate being involved being influenced by the staff in the Institution. In other words, in some instances they were somewhat reluctant to speak openly for fear of some reprisal by other inmates and possibly by staff of the Institution.

Q By the staff?

A It was on some occasions. The inmates mentioned this, they didn't wish to speak because with more time to do, but once it was explained to them, then they came forward, sir.

THE COMMISSIONER: Thank you. Anything arising out of that?

MR. PEACOCK: Maybe I can ask one further question.

EXAMINATION BY MR. PEACOCK:

Q With respect to your investigations, and as you are aware other instances you are asked to inquire into

in these proceedings, was your method of operation the same in every case?

A Exactly the same, sir.

THE COMMISSIONER: Was there any reluctance on the part of custodial staff?

A No, no, I received the utmost cooperation from the custodial staff and Warden Jackson.

THE COMMISSIONER: Thank you, Chief Inspector.

MR. PEACOCK: I might add one further point. There are two other witnesses whose names have come forth during the evidence, one being a Correction Officer by the name of Uitbeyerse, another by the name of Peterson. It was, of course, our intention to call both of these gentlemen, but both of them are in the hospital. I gather both of them are in intensive care, and I believe in one case one of them has a heart problem. We inquired if it was possible to obtain their testimony with respect to the July 17th incident, and it is not. If their health would allow them to testify before we complete the entire Inquiry, perhaps we can call them back, but at this time and as things stand I doubt very much if they will be available.

THE COMMISSIONER: Perhaps we can hear from Mr. Stilwell or Mr. Macdonald?

MR. MACDONALD: Both of these gentlemen are Correctional Officers.

THE COMMISSIONER: Mr. Stilwell, have you anything to say with respect to their testimony, whether they wish to testify later on, or are you instructed?

MR. STILWELL: I am instructed, sir, but one of these men in particular is hospitalized, as I understand it, as a result of nervous strain, not through this incident primarily, but it is a rather extreme condition. There is a good deal of tension on the part of the staff out there which has been building up for the last three years. However, it is my submission that their evidence would not add anything to what has already been heard, I don't think that the Inquiry will suffer by their absence. If the Inquiry went on for a very long period of time it is conceivable that Peterson might be available, but I can't imagine that the Inquiry would go on that long.

THE COMMISSION: Mr. Macdonald?

MR. MACDONALD: Rather than ruling out the possibility of the testimony I would prefer to wait and see just how long the Inquiry does go on. I would agree with Mr. Stilwell that I don't think they can add that much, but rather than saying we don't want them, I would rather wait and see what happens.

THE COMMISSIONER: Thank you, Mr. Macdonald.

MR. PEACOCK: That is the evidence with respect to the July 17th incident, and now with re-

spect to the meeting which was held, and the reason for the delay this morning, as a result of our decision I would like to call Warden Jackson, please, and I will ask that Mr. Meurin lead any evidence from Warden Jackson.

JAMES FRANCIS JACKSON, still under his former oath, examined by Mr. Meurin, testified as follows:

Q Warden Jackson, you're still under oath in this Inquiry?

A Yes, sir.

Q Sir, have you had any conversation with your superiors in Edmonton with respect to this Inquiry?

A Yes, sir.

Q And did that conversation relate to testimony given under oath in this Inquiry?

A Yes, sir.

Q And did it refer to any individuals who have given testimony under oath in this Inquiry?

A Yes, sir.

Q And could you relate whose testimony it concerned?

A I believe it referred in particular to testimony given by Assistant Deputy Warden Schlegel yesterday.

THE COMMISSIONER: Who initiated the conversation?

A I initiated the call, sir, with reference to other matters and, naturally, the question of the Inquiry

of course came into perspective, and a comment was made on, I believe it was Assistant Deputy Warden Schlegel's statement, concerning the knowledge of the people in Edmonton regarding the running of the Institution, or the ordinary day-to-day problems. I believe it was specifically referred to in reply to the Chairman of the Inquiry.

Q MR. MEURIN: Sir, I don't want to put words in your mouth, but could you relate the tenor in which this was raised?

A Well, it would appear that, and I am only interpreting somebody else, it would appear there was some point to this expression of Assistant Deputy Warden Schlegel regarding the knowledge of whoever these people might be that he referred to in Edmonton.

Q Does this concern you as far as your own position is concerned?

A I am beginning to feel that it does. Up to now I have had no doubt, but I am beginning to wonder. I have some concern at this time, sincere concern that I will just wind up like Uitbeyerse and the other man in hospital.

MR. MEURIN: I have no further questions, sir.

THE COMMISSIONER: Mr. Stilwell?

MR. STILWELL: Commissioner, I think I will refrain from cross-examination because they are not things I would like to ask him about, but I think Mr.

Jackson has a position of considerable standing with the Provincial Government. He also has a future career, and I feel that the people to whom he is answerable in Edmonton are capable of stooping to reprisal. I certainly don't want to expose him to that risk, so therefore I will forego cross-examination.

THE COMMISSIONER: Mr. Peacock?

MR. PEACOCK: I will leave any questions to you, sir, because I think at this time we have some decisions to make as to the course that this Inquiry is to take, and exactly what our scope is, and I would gather without cross-examining further that there is some pressure being applied from Edmonton as to what is being said here, and I think probably I have to leave it to you as the Commissioner to determine what kind of pressure there is and to determine whether or not it continues or it ceases.

THE COMMISSIONER: Thank you, Mr. Peacock. Mr. Macdonald?

MR. MACDONALD: I would just submit as my learned friends have said that it seems to me we are in the area of a public inquiry and it should be clear that the evidence given by everybody should be not subject to restraint of any kind or any sort whatsoever, and I believe that you yourself can get into this as well as anybody, but this is a matter

that has obviously occurred.

THE COMMISSIONER: Thank you, Mr. Macdonald.

EXAMINATION BY THE COMMISSIONER:

Q THE COMMISSIONER: Warden Jackson, you say that you initiated the call on other matters concerning the Institution?

A Yes, sir.

THE COMMISSIONER: Now then, I want you to tell me as carefully and as accurately as you can, one, of the conversation that came to be directed to evidence given by one of your officers under oath and, two, what the comments were with respect to that testimony which was given under oath. Does that help you?

A Yes, sir. On point one my attention was called to a press report, I believe in the Albertan of this morning, which I had not read.

THE COMMISSIONER: This conversation was this morning?

A This morning, sir, between 8:30 and nine o'clock. It referred particularly to the evidence of Schlegel, to this statement which I cannot repeat, but it appeared in the press relating to his comment of the knowledge of the people in Edmonton on the day-to-day problems of the Institution. I believe my comment was, well, the man is on the stand and the man is under oath and nobody can be responsible for what the witness says.

THE COMMISSIONER: Were you being called upon to account for the testimony given by Schlegel in that respect?

A My feeling was that this was an area which touched other people and this was their main concern.

THE COMMISSIONER: What were the comments with respect to Schlegel's testimony regarding the knowledge of persons in higher authority of the day-to-day running of the Institution?

A The comment didn't go much beyond that point, sir, but the comment was there.

THE COMMISSIONER: What was the comment?

A Namely to the effect that this thing will set us against each other, something to that effect.

THE COMMISSIONER: I see. Was there any suggestion perhaps that this type of testimony should not have been given?

A The very fact it was made, sir.

THE COMMISSIONER: You felt that?

A Yes, sir, that the very fact it was brought up. There was other testimony given on other matters which was not referred to.

THE COMMISSIONER: Now then, Warden, while you were on the stand at the opening of this Inquiry were any comments made to you concerning your testimony?

A Only in relation to my comments or remarks perhaps relating to staff shortages.

THE COMMISSIONER: What were those comments?

A I can't recall them exactly, but more or less the question was have you asked for staff that you have not received.

THE COMMISSIONER: Yes?

A I have produced testimony this morning over the past four years, which I will submit at a later time, indicating staff have been requested that for one reason or another unknown to me were not provided.

THE COMMISSIONER: Thank you, Warden Jackson. The Inquiry is adjourned.

(Proceedings adjourned)

THE COMMISSIONER: Mr. Peacock, in view of the testimony of Warden Jackson in connection with the telephone call that he has had from certain persons in Edmonton in connection with the testimony given by himself and Assistant Deputy Warden Schlegel in this Inquiry I am left with no alternative but to adjourn this Inquiry until Friday at ten o'clock, and in the interim I am directing that you, Mr. Peacock, and Chief Inspector Roberts attend in Edmonton and make a complete investigation in connection with the phone calls, the circumstances surrounding them, the content of those phone calls and then, sir, you will determine whether these witnesses are to be subpoenaed.

MR. PEACOCK: Fine, Mr. Commissioner. I

might advise that I think it would be proper and desirable that if Chief Inspector Roberts and I proceed up there, perhaps to save time - -

THE COMMISSIONER: When you proceed there.

MR. PEACOCK: When we proceed up there, to save time and perhaps endeavour to determine exactly what is going on, that you would accompany us. I would like you to take that under advisement. I feel there would be something to be gained by your direct inquiry into it.

THE COMMISSIONER: I will take it under advisement, Mr. Peacock. Is there anything further from other counsel?

MR. MEURIN: No comment, sir.

THE COMMISSIONER: Mr. Stilwell?

MR. STILWELL: No, sir.

THE COMMISSIONER: Mr. Macdonald?

MR. MACDONALD: Mr. Commissioner, I appreciate that you're conducting this Inquiry, but I would just like to put on record the concern that as counsel for the inmates concerned in this matter it is obvious from Warden Jackson's testimony that something is coming from Edmonton which is influencing himself and his administration and the guards. Now I have to say this, sir, that since this Inquiry has started we have had at least three separate incidents involving violence at the Spy Hill Correctional Institute. Now my concern about this is if there is pressure coming from

Edmonton, if this pressure is being passed down the line, and apparently is. We have heard of guards under pressure, guards that are being hospitalized, during the whole course of this thing. It appears to me in this situation you have a potentially explosive situation, and to add fuel to an explosive situation I think can only result in incidents such as have occurred. Now our position would be, and we would hope to get directly to the source of this, we would hope you would use the power of subpoena, and we would like to know whether in fact there have been any directives to the guards to change their testimony in any way to cover these things up, and we would like to know how this is affecting their relationship with the prisoners. What has gone on in the last two weeks is something which should not have gone on, and unless checked I can see more incidents coming than have happened already in the past two weeks.

MR. PEACOCK: I might just add my comment to Mr. Macdonald's that there have been episodes of, I don't want to use the term riot, but there have been episodes of problems at the Instituion which have occurred since this Inquiry started, that hopefully will come within the terms of reference of this Inquiry, and hopefully we are going to get to the bottom of and find out what is going on. I can assure Mr. Macdonald on the record our investigation on our

trip to Edmonton this afternoon will include inquiries as to what in fact may be affecting the operation of the Institution and anything that may affect testimony or the conduct of this Inquiry.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: It has come to my attention this morning there has been another incident in the gaol last night and I would like to state for the public record that it is my belief that the inmates of the Institution are using this Inquiry to further polarize the conflicts between the staff and the inmates, adding to whatever tension might already exist. It is my opinion that among other things this is done in an attempt to make the guards retaliate, lead to incidents of violence and so on, and without getting into any of the direct evidence, I think that if this Inquiry does inquire into this most recent incident, I think that the evidence will show that the staff of the Correctional Institute has acted in an entirely reasonable manner. I merely wish to state this because I wish the public to know that we feel this kind of pressure is occurring and that the situation is in hand.

THE COMMISSIONER: Thank you, Mr. Meurin. This Inquiry is adjourned to ten o'clock on Friday morning.

(Which Concluded the Proceedings on October 10th)

OCTOBER 12th, 1973

DEPOSITIONS TAKEN AT 10:00 A.M.

MR. PEACOCK: I think before we start I should make a brief statement about our investigation which was conducted on Wednesday. Inspector Roberts and I went to Edmonton. We spent the afternoon interviewing Mr. Lee and Mr. Osmond, Administrators with the Correction Department. We talked in depth about the Inquiry and the scope of the Inquiry and about communications that they had with Warden Jackson, which gave rise to the adjournment on Wednesday.

After our lengthy meeting, both Inspector Roberts and I were completely satisfied that there had been no pressure put on anyone from the Department in Edmonton; that any communcation had been for communication purposes only. The communications with regard to Warden Jackson arose during conversations about the Correction Institution business in general and were simply for the purpose of obtaining information.

I might comment myself that I would expect a part of the problem that has arisen is due to the fact that the Terms of Reference of this Inquiry are extremely broad and wide. As you are aware, Mr. Commissioner, you are empowered under the Order in Council to inquire into incidences of alleged excessive use of force by guards at the Calgary Correctional Institution. With the way the incidents are occurring

we could probably be here forever and I have taken the position all along that the Inquiry should proceed on the basis of facts. That we do have five, of what we could consider major incidents that we propose to inquire into. And any discussions as to the causes by a necessity will have to wait for the hearing of evidence concerning the incidents and any discussions of any subpoening of staff from the Corrections Office in Edmonton. I might submit, that that decision has to be made after we have heard the evidence surrounding these incidents. It is my proposal, subject of course to your concurrence that we will proceed with the five incidents. We will develop into questions of what happened and when the five incidents have been aired before this Inquiry, and I think the decision is yours then as to how much further we can go. That is, do we inquire into the shortage of staff? Do we inquire into the physical structure and do we inquire as to the aspects between the various incidents. I suggest that out of necessity, those questions will have to wait. Unless there is an objection, I think that is the scope that the court of this Inquiry should take at least for the foreseeable future.

THE COMMISSIONER: Thank you, Mr. Peacock. Mr. Stilwell.

MR. STILWELL: I take it I am being invited to make a submission about the further course of this Inquiry?

THE COMMISSIONER: Or as to any comments you may have with respect to the remarks made by Mr. Peacock.

MR. STILWELL: The first thing I say, with the greatest respect is this; if you or Mr. Peacock pass judgment publicly on the issue that arose Wednesday, you will be doing so on the basis that you have heard sworn evidence here in this court room and you have also heard evidence off the record which may or may not be hearsay. I submit it would be most unfortunate if you purported to pass judgment on that issue, either publicly or privately or if you gave the public at large the impression that you have conducted a private inquiry and have made up your mind on a certain issue. I respectfully urge you not to do that.

As to the further inquiry, it begins to appear that some of these incidents that we have been investigating, while not trivial, are not really earth-shaking of importance, either. And it is my submission that if you neglect to investigate the general considerations of running the Institution, that you wouldn't be doing your duty.

THE COMMISSIONER: Thank you, Mr. Stilwell. Mr. Scott.

MR. SCOTT: Mr. Commissioner, notwithstanding the fact that Mr. Stilwell and I are representing, shall we say, interests of adverse circumstances, I concur with his remarks insofar as he

has stated, that any decision that is to be made by you sitting as a Commissioner on this Hearing, should be made on the basis of statements which are made publicly under oath, subject to examination by counsel and yourself. I would respectfully submit, as did Mr. Stilwell, that the matter which arose as a result of the examination of Warden Jackson, if it is to be determined, and I suggest it should be, that it should be determined after evidence has been heard in this Hearing and not as a result of investigations privately conducted by the investigator in this case.

It is my submission as well, sir, that the scope of the Hearing, as I believe Mr. Peacock and Mr. Stilwell have also indicated, should extend into the areas that are opening up almost on a daily basis, because the problems which lie within the Institution are not problems which are identifiable by any individual incident. They are problems which have many forces and ultimately I think we should be looking into them. And I concur with Mr. Peacock, by the way, that in the initial instance we should direct our attention to these five incidents, but surely the matter cannot be left alive at that point. Thank you.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: Sir, Warden Jackson is gratified to learn the result of Mr. Peacock's investigation. He is gratified that they are satisfied there is no

pressure. He concurs in that result. I would make the comment that I think perhaps on occasion these things get blown out of proportion in the press and perhaps that is the source of some of the problems that we have had in the last several days.

Now, in the press report, after the Inquiry was adjourned, I believe the word "coercion" was used. I don't have a copy of the transcript, but I believe there will be no record of the word "coercion" ever being used in this Inquiry. Another example is that reports attributed to me making a statement to the effect that there was a "riot" or "near riot" recently, I believe the word I used was "incident" and all I can say is that personally, myself, I would admonish the press to be more vigilent than they generally are in terms of their accuracy. I would also request that you make the same admonition.

In terms of Mr. Peacock's proposal of staying within the incidents and then dealing with the more general matters subsequent to that, when you have a clear perspective in relation to these incidents, we would concur with that, sir. I think there is a danger otherwise that we could get into an all-encompassing Inquiry into overall penal reform and if that was the case, I think we would still be here two years from now. Other than that, I have nothing further to say.

MR. PEACOCK: I would like to make one more comment, sir. I think it is one that should properly be made. Mr. Stilwell has indicated that he feels that a private inquiry or a private investigation should not form the basis of a decision and I must say I totally concur. I don't think that the investigation that Inspector Roberts and I held on Wednesday should be an end all or a be all to that end, if the question is found to be relevant. What I view this Inquiry or investigation to be is this; that we went up to Edmonton to determine if the course of the Inquiry was being affected by pressure. We satisfied ourselves that it wasn't. At least to the extent that we can proceed with this Inquiry and hear the facts and if, when we are finished with the five incidents, that we propose to hear evidence on other matters and it is determined that we must go further, that we must go wider, if it is determined by counsel that they wish to examine people from the Corrections Staff and you concur with their request, then by all means the whole matter must be heard publicly.

Now I feel that our investigation of Wednesday was nothing more than this; we have determined that it is not my proposal to call anyone from the Correction Staff. If they wish to attend, they are certainly welcome to do so. My intention is to proceed with the facts of the five

incidents in question and decisions can be made after that as to how much further the Inquiry goes.

THE COMMISSIONER: Thank you, Mr. Peacock. Any further submissions by counsel? Well, gentlemen, in view of the submissions made to me by Mr. Peacock and in view of your submissions to me particularly, Mr. Meurin, it is my decision to proceed with this Inquiry. Have there been any basis for the fact that this Inquiry was in fact or witnesses to this Inquiry were in fact being pressured or coerced, I would have no alternative and I would not have hesitated, to place this particular investigation in the hands of the proper authorities, persons equipped to make such an investigation and let the chips fall where they may. I may say that any witness who discusses his testimony with anyone, I certainly cannot prevent that. But, I do point out that a discussion of that testimony may very well prove embarrassing to the person who discusses it and the person with whom he discusses that testimony. I think in view of that caution I would now ask Mr. Peacock if he will proceed with the incidents that he related.

MR. PEACOCK: Thank you. As I advised on Wednesday, we were going to go into the second incident which our investigation has uncovered relating to incidents at the Calgary Correctional Institution on June 23rd, 1973. I would like now to call Norman George, please.

NORMAN D. GEORGE, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. George, you are employed at the Calgary Correctional Institution?

A That is right, sir.

Q What is your position?

A Correction Officer 2.

Q And you were employed in that capacity on June 23rd, 1973?

A I was, sir.

Q How long have you been employed at the Calgary Correctional Institution?

A Approximately eight years.

Q Now, on June 23rd, 1973, did you have occasion to have something to do with an inmate by the name of Rocheleau?

A I did, sir.

Q And could you tell us what occurred?

A On June 23rd I received a phone call from the gymnasium that inmate Rocheleau was being sent back from the gym. The reason was, he was smoking and this is prohibited in the gym. He came back to the cell block and was sent back up to "A" Range. On the way, he wandered into "A" Range, I guess he did approach Officer or Mr., I can't think of his name for a minute. Mr. Sharp. Going by Mr. Sharp, he threatened to strike him with his fist and Mr. Sharp asked him to go down -

Q Where were you at this time?

A I was down in "B" Range at the time, sir.

Q So you didn't hear that threat?

A I didn't hear the threat, no.

THE COMMISSIONER: Did you observe it?

A No. I didn't observe it, sir. It is not my position.

THE COMMISSIONER: I think, Mr. Peacock, the witness should relate only what he knows. The rules of evidence show that this is blatantly hearsay, I am afraid.

Q MR. PEACOCK: Did you observe anything that happened that night with respect to Rocheleau or is what you are telling us what you received in a report.

A The only thing - I will carry on from there. In that report from Mr. Sharp, Rocheleau was locked up. Mr. Sharp came up to report the following incident to Mr. Umpherville and myself and we removed inmate Rocheleau from his cell and placed him down in the meditation cells.

Q Now, all of that, I gather, happened outside of your sight, did it?

A (No answer)

Q Well, did you help move Rocheleau down to the meditation cells?

A I did, sir.

Q But until you went up to move Mr. Rocheleau down to the isolation, you hadn't seen what happened?

A No, just from the report, sir.

THE COMMISSIONER: You acted on the basis

of that report?

A That's right, sir. That was my duty, to act on it or take action on a report like that.

Q MR. PEACOCK: Now, on the basis of what you have heard Rocheleau was doing in the "A" Range, you and Umpherville moved him to meditation?

A Mr. Umpherville and myself.

Q Just the two of you?

A That is right, sir.

Q And was there any incident when you took him down and put him in to the meditation cell?

A No. He was a bit angry at the time, but we did take him down and place him in the meditation cell without any resistance whatsoever.

Q Now, what is the next thing that occurred?

A On the following day, June 24th, at approximately 2 p.m. in the afternoon -

THE COMMISSIONER: Now, you placed him in those meditation cells?

A That is right, sir.

THE COMMISSIONER: Which cell number? Show the witness Exhibit 23, Mr. Clerk. I want to know which side he was placed in. Does Exhibit 23 show you the cells in which he was placed, in one of them?

A Well, this cell right here, No. 3 cell.

THE COMMISSIONER: Show me, please. That is on the left of the photograph, is it?

A That's on the left, sir, yes.

THE COMMISSIONER: May I see it.

A No, just a minute please. It would be on the right, sir, as you are coming in.

THE COMMISSIONER: On the right in the photograph?

A On the right of the photograph. This cell right here. These cells on the other side aren't used.

THE COMMISSIONER: That is what I thought. Was he stripped before he was put in that cell?

A Yes, he was, sir. All his clothes were removed, sir, and they were given back when he was placed in the cell.

THE COMMISSIONER: They were given back to him after he was placed in the cell?

A Immediately after.

THE COMMISSIONER: Thank you.

Q MR. PEACOCK: Now, you say around 2 o'clock the following morning was the next occurrence that you were involved in with respect to this incident. Is that correct?

A Not in the morning. It was around approximately 2 p.m.

Q I see. What happened?

A There was a considerable amount of pounding down in the dark cells from inmate Rocheleau and Harwig's cell.

Q Where was Harwig?

A He would be in the meditation cell No. 4.

Q Cell No. 4?

A That is right, sir.

Q So, he would have been in the cell right next to Rocheleau?

A That is right, sir.

Q What occurred?

A They were pounding on the cell doors. This carried on for, maybe approximately an hour and a half. The afternoon shift was ready to come on, say, within a half an hour. I phoned Mr. Anderson in the guard room and asked him if there was any possible way we could have the noise stopped and have these inmates removed from segregation cells down to the M cells below the guard room.

Q Let me just interject. Were you on duty at 2 in the afternoon on the 24th?

A That is right, sir.

Q And what shift were youon?

A I was on day shift, 8 a.m. to 4 p.m.

Q What was your duties that day? Were you in charge of any particular area?

A That day I was in charge of the whole cell block, controlling all movements through the block.

Q Would you have been stationed in the cubicle at the cell block or were you the roving guard?

A When there is noise in a cell block, I will have an officer relieve me from this cubicle and I will go down to the meditation cell and observe what the noise is, where it is coming from and what is causing all the disturbances.

Q And did you do that, that day?

A I did, sir.

Q Who relieved you, do you remember?

A. I don't remember who relieved me when I went down.

Q But you went down and then you made some inquiries about how the noise could be stopped?

A That is right, sir.

Q And then your proposal was to move the offending inmate into the meditation cell under the guard room?

A Pardon me again, sir?

Q Your proposal was to move the offending inmate down to the meditation cells under the guard room?

A Yes, I phoned the guard room first to ask them if it would be all right to have them removed.

Q Do you know who you talked to?

A I talked to Staff Sergeant Anderson.

Q And did Staff Sergeant Anderson authorize that movement?

A He informed me on the phone that he would call me back in a short while or they would come up to the cell block.

Q What happened?

A In approximately ten minutes time Mr. Anderson and Mr. Schleigel arrived to the cell block and when they arrived in the cell block Mr. Anderson, Mr. Schlegel,, Mr. Sharp and Mr. Rice and myself went down to the meditation cells and we opened the doors leading into the dark - into the meditation cell.

THE COMMISSIONER: Did you open both doors?

A No, sir, we didn't. We went over to inmate Harwig's cell and opened his cell and asked him to step out. When we entered the door he pretended that he was sleeping on the bed. I asked inmate Harwig to step out of his cell and to leave the cell block. He came out of his cell, went downstairs to the top of the floor, which is the "B" Range and was removed from the cell block by Mr. Sharp.

Q MR. PEACOCK: By Mr. Sharp?

A By Mr. Sharp.

Q All right, what happened then?

A Immediately following that, we opened inmate Rocheleau's door. He come out of the cell in a very reluctant manner. He was removed from the meditation cell up to the "B" Range and out through the "B" Range cell door towards the guard room.

Q Where were you at this time?

A I was behind him at that time, sir.

Q And who was with you?

A At that time there was Mr. Anderson, Mr. Rice, Mr. Schlegel and myself.

Q What occurred?

A Inmate Rocheleau was leaving the cell block. After about 30 paces, going down towards the guard room, inmate Rocheleau refused to move any farther. We informed inmate Rocheleau to carry on to the guard room. He refused to move completely then. When he refused to move, we were

pushing him, helping him, pushing on his shoulders. What I mean by "pushing" we had our hands on his shoulders and were telling him to go to the guard room.

Q Did you strike him at that time?

A None whatsoever, sir.

Q All right, what happened?

A In front of the barber shop, which is approximately 30 feet from the end of the hallway, inmate Rocheleau turned around and started fighting with us. For no reason. I don't know why. When the fight started, he struck me in the face and knocked me down to the ground, cutting the inside and outside of my face.

Q Where did he hit you on the face?

A Along the side, sir.

Q What did he hit you with?

A His fist.

Q Now, had you struck him before this occurred?

A No way. We had not struck him.

Q Had any of the guards struck him before this occurred?

A No, they hadn't.

Q Were you the first one hit?

A To my knowledge I was, sir. I said I was knocked down.

Q You ended up on the floor?

A For a short period, yes.

Q What injuries did you sustain?

A The outside of my face was cut along here, plus the inside of my mouth.

Q What occurred then?

A The inmate was subdued on the floor at the time. Handcuffs were placed on the inmate.

Q Who subdued him?

A To my knowledge, the three of us held him down and placed him on the floor.

Q Did you get back up after you were knocked down?

A Definitely.

Q What occurred then?

A The handcuffs were placed on inmate Rocheleau with his hands behind his back and he was escorted to the guard room then, walking on his own.

Q And was he left at the guard room or did you take him down to the meditation cells?

A He was taken right down to the segregation cells below the guard room.

Q Who took him down? Did you?

A I was present at the time.

THE COMMISSIONER: What did you call those cells?

A Segregation cells, sir.

THE COMMISSIONER: Segregation?

A Yes, sir.

Q MR. PEACOCK: When you took him down, who else was present?

A Mr. Schlegel, Mr. Anderson. As far as I know, Mr. Rice was present too, at the time.

Q I see. In the subduing, when you were endeavouring to subdue Mr. Rochleau, at this time did you strike him?

A No, I never struck him, sir.

Q Did you see any of the other guards strike him?

A No, sir.

Q What were they doing? How were they subduing him?

A By placing his arms behind his back.

THE COMMISSIONER: Are you saying, witness, that he was never struck during this altercation?

A No. He was never struck, sir, no. He was the one that struck me.

THE COMMISSIONER: I gathered that. Can you tell me why he wasn't struck?

A I felt myself like it wasn't warranting to strike him back if we could subdue him this way.

Q MR. PEACOCK: Did you seek medical treatment for the injury you sustained?

A No, I never, sir.

Q You managed to recover from them all?

A Yes, to my knowledge I have.

MR. PEACOCK: Those are all the questions I have. Would you answer other counsel, please.

THE COMMISSIONER: Mr. Stilwell.

CROSS-EXAMINATION BY MR. STILWELL:

Q What is the most desirable part of the gaol to be in from the inmate's point of view?

A I don't quite understand, sir.

Q Well, if you are an inmate, what wing would you like to be in?

THE COMMISSIONER: That would depend on what he is in for, Mr. Stilwell.

Q MR. STILWELL: Well, which is the nicest part of the prison from the inmate's point of view? The West Wing, or the place where the small cubicles -

A I still find it very difficult to answer that question. It depends actually on the inmate himself, where he prefers to do his time.

Q All right. Let's look at it the other way around, then. The worst thing you can do to a prisoner is to put him in where, what part?

A Well, I -

Q It would be the hole, isn't it?

A No. Not that bad down there.

Q I know it is not that bad, but that is not the question. My question is, what is the worst thing that you could do to him.

THE COMMISSIONER: Perhaps, Mr. Stilwell, I can help. I take it when he was moved from "B" Range and placed in meditation, that was, shall we say, a step down the ladder, wasn't it?

A (No answer)

THE COMMISSIONER: And then when he started causing a commotion in segregation or meditation, the

next step would be to move him to segregation, is that it?

A I slipped up there on a couple of points. The reason he was moved from the dark cell, from the meditation cell to a segregation cell, these inmates down in the meditation cells were disturbing the other inmates in the cell block.

Q MR. STILWELL: Take a look at Exhibit 23, will you please. What is your name for that place?

A (No answer)

Q You don't call it the hole any more.

A That is the meditation cell.

Q And I suggest to you that if a prisoner is a real problem you want to put him in the most maximum security place you have got and that is where you put him?

A No, I wouldn't. If I was thinking he was going to create a disturbance down there, because they would bother the rest of the inmates in the cell block.

Q We are not talking about a disturbance. We are talking about the worst punishment you have got from his point of view.

A The majority of the inmates in the cell block, when they are placed into the meditation cell, they seem to think it's a big joke and they laugh about it.

Q That is Exhibit 23 you are talking about?

A That is right, sir.

Q So, it is not much of a punishment, is it?

A If I say, no, maybe some people would think I have got some brutality in me. I wouldn't say that it is much of

punishment, no.

Q So really there isn't any place in the gaol that has got that much of a punishment?

A No, there is not, sir.

Q And so if a guy is a problem somewhere you put him in here and if he is still a problem, what do you do with him then?

A If he is a problem and is creating noise down there, there is only one solution,to move him down below the guard room into the M cells down there.

Q Let's have the picture of those, please. Is that Exhibits 26 and 27?

THE CLERK: I am showing the witness Exhibits 26 and 27.

THE COMMISSIONER: All right.

Q MR. STILWELL: Show him Exhibit 26. Is that what you are talking about when you say the M cells?

A That's right, sir.

Q So, if there is a problem in Exhibit 23, you take him out of there and put him in 26?

A That is right, sir.

Q Well, that looks to me to be better than 23. He can see out of it and he has got company right next door that he can talk to. Is that correct?

A That is correct. They can see out of it, but also when they are down in the meditation cells they also can talk

to the person in the cell next to them, too.

Q But even if he is in 26, that's not very much of a hardship, is it?

A No hardship at all.

Q So, when he gets in 26 and he is still a problem, what do you do with him then?

A There is only one other solution. You can say that there should be a padded cell and they should be left in there.

Q But there isn't.

A No, there is no padded cells.

Q In other words, once he gets to 26 and he is still a problem, then you are beat.

A Yes, I would say so.

Q And there isn't any other place in Alberta or in a gaol where you can shut him out if he is a real problem?

A Well, I will carry on a bit further. If he is creating that much of a problem, maybe he has a mental background and maybe he shouldn't be in the Institution.

Q Well, let's say that Panoka won't take him. Then what?

A (No answer)

Q Suppose you have got a prisoner on your hands and you put him in 26 and he still raises hell. That is the end of it as far as you are concerned. You just have to live with it, isn't that right?

A That's right. You have to live with it.

Q Do you happen to know Rocheleau's background?

A No, I don't, sir.

Q Are you aware that he was a prisoner in the Correctional Institution, Provincial Correction Centre at Regina before he ever came to your Institution?

A I heard very small talk on this from Rocheleau himself.

Q Are you aware that he was regarded as a problem prisoner in that institution?

MR. SCOTT: Mr. Commissioner, I know we are given wide latitude as to the Rules, but is Mr. Stilwell giving evidence? This man has already answered the question, saying that he doesn't know his background. I think that we may be hearing evidence from Mr. Stilwell rather than the witness.

THE COMMISSIONER: I think I have known Mr. Stilwell long enough to know that he would not attempt to mislead this Inquiry.

MR. SCOTT: I am not suggesting that he would be attempting that, sir. What I am suggesting, sir, is that this man stated that he doesn't know the background of the prisoner. Perhaps another person does and that person can be examined on that basis.

THE COMMISSIONER: I appreciate that, Mr. Scott. But, I am rather interested in Mr. Rocheleau's background. I would like to hear further evidence.

MR. STILWELL: Mr. Commissioner, I am in possession of a document here and I will describe it and ask you for a ruling. Obviously we are in no position to call witnesses from the Province of Saskatchewan. Here

is a letter from the counselling supervisor of the Provincial Correction Centre of Regina, dated June 25th, 1973. It describes the prisoner, Rocheleau. I am not able to identify this document because of course I haven't got the witness here who signed it. But, I submit that you can accept it as an exhibit.

THE COMMISSIONER: May I see it.

MR. PEACOCK: Perhaps I might suggest, we are going to be calling Rocheleau and perhaps the questions could be directed to him at that time. I suppose we could create any kind of a document and put it in. I think we can use latitude, but I woul d suggest that we have some sort of proof as to what the document is before it is submitted as evidence.

THE COMMISSIONER: I would suggest this, Mr. Stilwell, that perhaps in fairness to the inmate, that you have this letter at your disposal so that it will be certainly available to put such allegations or all of the allegations in this letter to him. Are you calling Rocheleau?

MR. PEACOCK: Yes. He will be called.

MR. SCOTT: Would it be possible for me to see that letter?

THE COMMISSIONER: Oh, yes, sure. Mr. Stilwell will give you a copy of it."

MR. STILWELL: That's all the questions I have. Thank you.

CROSS-EXAMINATION BY MR. SCOTT:

Q I would like to enquire a bit further into the question of the cells. Now, I believe, Mr. George, that you stated that the meditation cells that you refer to is not what you would consider a punishing place to put a person. Is that right?

A That is right, sir.

Q Now, it is called the meditation cell, but continually throughout your evidence in cross-examination by Mr. Stilwell, referred to it also as the "dark" cell. Is that right?

A (No answer)

Q You called it a dark cell and then you also corrected yourself and said meditation cell.

A That is right, sir.

Q Why did you call it the dark cell?

A As I said before, I worked there at the Institution for approximately 9 years, 8 years. At one time we used to call them the dark cells.

Q Because they were dark?

A No. They are not dark, sir.

Q Well, why would they call it the dark cell, then?

A It is just a saying that has taken place for many many years.

Q It is also called the "hole" as well, isn't it?

A I don't call it the hole, sir. I very seldom hear this.

Q But you have heard of people calling it the hole?

THE COMMISSIONER: Excuse me, Mr. Scott, you are probably referring to the previous place of confinement as the dark cell or the hole. Not necessarily here, but the ones where you formerly served, is that correct? Or when you talk about what you formerly called the dark cells, are you referring to what is in Exhibit 23 or does your background refer to other cells in other institutions?

A That could be other institutions, sir, yes.

THE COMMISSIONER: Have you worked in any other institutions?

A Yes, sir.

Q And in those other institutions, what were they called?

A They weren't dark cells. They were segregation cells with the bars in front.

THE COMMISSIONER: What other institutions did you work in?

A Peace River, sir.

THE COMMISSIONER: All right.

Q MR. SCOTT: Getting back to the question of dark cells; you call them dark cells because that is the way you knew them in the past. That is the common term or the slang term for the cells, isn't that right?

A I may have mentioned that name twice.

THE COMMISSIONER: You did mention it.

Q MR. SCOTT: You don't need to be afraid

of that, Mr. George if you called them the dark cell. I just want to know why you call them the dark cell. There is no mystery, I can tell you right now, because we have heard the word "hole" mentioned many times in this Commission Inquiry and I am asking you why you call them the dark cells. Now, just tell us why.

A As I said before, I was employed at the Instiution approximately eight years. When I was first employed there, we used to use the dark cells at one time. Approximately six years ago, in the dark cells, there is definitely no light. They have been prohibited from being used since that time.

Q There was no lights in those cells?

A On the other side there were no lights, no.

Q No lights in those cells?

A That is right, sir.

Q And that is why you call them the "dark" cell, because they are on the other side of the old dark cells?

A That could be.

Q Right?

A Right.

Q Now, let's get back to the word "hole". Isn't it true that you also heard these cells referred to as the hole?

A Very seldom.

Q The inmates never have referred to them as the hole?

A They could use this to make a hero on their part by using

that word.

Q They don't use the word "meditation" cell?

A No, they don't.

Q Sometimes they call it the " digger" as well?

A I have never heard of this expression.

Q You have never heard the word?

A No, I haven't sir.

Q And you have been there how many years?

A Approximately 8 years.

Q Have you ever talked to the inmates? Have you ever talked to them at all?

A Oh, I must have talked to them. I have been there 8 years. I am bound to have talked to them.

Q Well, is your answer, yes, that you have talked to them or no, that you don' t?

A Definitely I talk to them.

Q Have you ever discussed these cells at all with them? These meditation cells?

A In which way, sir? Which way do you mean?

Q In any way.

A Pardon me?

Q In any way at all.

A The only way I will discuss the meditation cells with an inmate if he is being placed down there. I will tell him why he is being placed there.

Q And I take it that you have placed quite a few people in the meditation cells, haven't you?

A What do you mean by quite a few?

Q More than two.

A Oh, yes.

Q More than ten?

A Ten is about the limit.

Q So, in the whole time that you have been there you have only placed ten men in the meditation cells?

A Give or take.

Q How many?

A Say 13.

Q Okay. And you are a Correction Officer 2?

A That's right, sir.

Q Would you agree with me that the words "digger", "dark" cells and "hole " have rather a sinister connotation?

A Yes, I would agree with you.

Q Thank you. And certainly the word "meditation" cells, that wouldn't have a sinister connotation, does it?

A What do you actually mean?

Q Well, I think my question is relatively clear. I suggest that the word "meditation" cell does not have the same connotation as the word "dark", "hole" or "digger".

A No, that is right.

Q Now, as I understand it, Rocheleau, was actually in that cell, wasn't he? He was in an isolated cell in the cell block.

A That's right, sir.

Q So he was, insofar as his communication with others, he

would be placed in a cell and he would be locked in a cell, right?

A Right, sir.

Q And no one else was in that cell?

A No, sir.

Q Then he was removed for a reason that you have complained of, down to the meditation cell?

A Segregation cells.

Q No. The meditation cells first. It was the meditation cell. Right?

A (No answer)

Q The hole. That's where he was first taken to.

A Maybe I made a mistake in that part. The meditation cells are classified as the dark cells, whichever you want to put it. The segregation cells are the ones down below the guard room.

Q I realize that. And I am stating to you that in your testimony, and my understanding of this case is that this man was initially taken to the meditation cells, the ones underneath the cell block.

A That's right, sir.

Q And now, the cell that he was originally in, and it is Rocheleau that we are talking about, the cell that Rocheleau was originally in, they just have bars. They are not completely blocked off, are they?

A No, they have a steel door in front of them.

Q There is no window that you can look out of?

A There is a window, yes.

Q How big?

A Approximately 6 by 6.

Q This is the cell in the cell block?

A That is right, sir.

THE COMMISSIONER: Is the window six by six inches?

A Six by six inches.

Q MR. SCOTT: Are you sure that the cells in the cell block just don't have bars?

A In the meditation.

Q Now look I have been out to the gaol and I know what the names of the cells are. I am not confusing the cell block with the meditation cell. I am telling you that the cells in the cell block in the "A" and "B" Range, those ones, they have bars, don't they?

A Definitely.

Q Okay. and when I want to talk about the meditation cells, I will call them meditation cells because they don't have bars, do they?

A No, they don't.

Q In fact they have a block door with a little window?

A That is right.

Q Now, isn't it also true that the windows that are there - that there are windows across from the cells in the cell block. That is, the cells above the ground level. There are windows so that light comes in. Isn't that right?

A What part of the Institution are you talking about now?

Q I am talking about the cell block.

A "A", "B" and "C" Ranges?

Q Yes.

A Yes.

Q Okay. And the inmate can sit there and he can look at the window and/or he can at least see daylight or things of that nature?

A That's right.

Q But you can't see anything out of the meditation cells, can you, except just through a little hole in the doorway across to what used to be the dark cells?

A That's right, sir.

Q Okay. Now, I take it that these doors are generally kept shut in the meditation cells?

A They are, if there is an inmate inside of them.

Q And there is one light inside the meditation cell?

A There is a day light and also a night light that goes on during the evening.

Q Right. But, during the day and during the time that Rocheleau would have been in there when you went down in the afternoon, there was just one light?

A That is right.

Q And one bed. Right?

A That's right.

Q And is there a toilet in there?

A Yes, definitely.

Q There is no washing facilities, is there?

A Yes, there is, sir.

Q There is washing facilities?

A Yes, there is, sir.

Q Are you sure of that?

A I should be. I have been there 8 years.

Q But you say you have only been down there ten times.

A Yes.

Q So, there is a bed, there is a small wash basin and toilet facilities. Is that right?

A That is right.

Q Now, are these inmates given any tobacco when they are down there?

A No. They don't get tobacco down there.

Q Are they given any reading material down there?

A Not when they are on punishment. They have the Bible.

Q So in actual fact, when you are taking a person down there, you are punishing him, aren't you?

A Maybe half of the inmates think it is a punishment and the other half don't.

Q No. But from your point of view.

A (No answer)

Q Well then, I will ask you this; why do you take people down to the meditation cells?

A It depends on the circumstances that they are charged with.

Q Why did you take Rocheleau down there?

A He threatened to strike an officer.

Q Well, you could have just locked him in the cell, in the cell block and he would have a tough time trying to strike an officer.

A No, because often if you are coming by a cell, maybe kick you or a boot would be flying out and hit you on the head.

Q So that's the reason you took him down to make sure that he doesn't kick you in the head or throw a boot at you?

A And another reason, it is very embarrassing, sir, for an inmate to be placed in the cell and you walk by and for some reason and he is calling you filthy names and this happens several times.

Q But isn't it a fact that the inmates often call the guards filthy names?

A Very often.

Q Sure. So, there wouldn't be anything particularly embarrassing or unusual about one person calling a guy a filthy name if it is common practice. Don't you people get immune to it out there?

A Oh, yes. We have been called it enough.

Q Are you saying that the guards are not immune to being called filthy names? Like you have been there for eight years.

A Everybody has got different feelings than I have.

Q Does it bother you?

A Yes, it bothers me at times when it is not called for.

Q Well, let's recap. Why did you take Rocheleau down there? Because you didn't want him throwing a boot out of the door

to injure the guard or any of the guards and because you didn't want him to go yelling at the guard. Is that all?

A Under the circumstances this was an Institution charge that did warrant that man to be locked in the meditation cell.

MR. MEURIN: Sir, I don't want to be in the position where I am continually interrupting and certainly Mr. Scott has been given wide latitude, but it just seems to me that we are getting into policy matters and there may be other people that are much more qualified to answer the general areas of questions.

THE COMMISSIONER: Now, Mr. Meurin, it is abundantly clear to the Commission that this officer was acting on the basis of a report and the report which indicated that a physical threat had been made by this inmate to one of the officers. As a result of that he was then taken down and placed in what might be known as a meditation cell and with that apparently is part of the routine. I think we are clear on that, are we not, Mr. Scott?

MR. SCOTT: Yes. I agree with you, sir.

Q Now, when you took this man down, he didn't offer any resistence, I take it?

A No. He went down.

Q And it was only subsequently the next day that you ran into troubles with him?

A Right, sir.

Q Are you aware that this man had been a heroin addict?

A No, I had not been, sir.

Q Were you ever advised as to which prisoners may be going through it or may be withdrawing from the use of any drugs or experiencing medical problems and yet not in the infirmary?

A Yes, sir.

Q But no one had advised you about this person?

A I had not been advised by the inmate.

Q Now, when you place a person into a cell as confining as the meditation cell, if you knew that he was undergoing some form of medical problem or physical-medical problem; you know, specifically say the withdrawal of the use of heroin.

A No, I wouldn't, sir.

Q I see.

THE COMMISSIONER: How long had he been in your custody at that time?

A (No answer)

Q MR. SCOTT: Well, I suggest this man was a 30 day remand at that time, at that point, wasn't he?

A That depends on how long he could have been remanded for - six months. By then I don't know for sure.

Q Well, I am sorry, I am wrong. He wasn't a 30 day remand. Isn't it true that he was merely on a remand awaiting his

case of determination in the court?

A I don't know how long he had been there remanded.

Q Okay. And the cell block, that is where you put your remand, isn't it?

A Right, sir.

Q Generally?

A Yes.

Q Now I am going to suggest to you that when you went down into the cells on the day in question, and that is the afternoon of June 23rd, that you went into Harwig's cell, didn't you?

A Did I go into whose cell?

Q I am now over to Harwig. You went into his cell, didn't you?

A No, I did not go into Harwig's cell.

Q Did you touch Harwig at all?

A I didn't touch him any place.

Q Did you at any time touch him?

A No, I didn't. I just opened the door and asked him to step out of the cell, which he did, as I told you before.

Q And he did this voluntarily is what you are saying?

A He came out voluntarily.

Q You are sure of that?

A I told you this before and I am under oath.

Q Okay, as long as you are aware of it. Now, look, you say you never touched Rocheleau at all?

A Whereabouts are you referring to?

Q In the afternoon. In the afternoon of June 23rd, you never touched him at all?

A Rocheleau was - our hands were put on his back.

Q Did you take his hands behind his back?

A You are referring back to when he was handcuffed?

THE COMMISSIONER: You might pinpoint that, Mr. Scott.

MR. SCOTT: Okay.

Q Well, let's go right to the point where you opened up Rocheleau's cell. Where was Rocheleau when you opened the cell door?

A Sitting on his bed.

Q Are you sure he wasn't lying on his bed?

A He was on his bed.

Q Okay. You don't recall whether he was sitting or lying down?

A No. I don't recall. He was on his bed.

Q Did you go into his cell block?

A I did not go into his cell.

Q Did Officer Schlegel go into his cell?

A Mr. Schlegel did not go into the cell.

Q So, your statement under, under oath today, then, is that no one went into this man's cell?

A His cell door was opened. He was asked to step out, in which he did. He came out in a reluctant manner.

Q When you say a "reluctant" manner, I take it that you are stating he walked out slowly?

A That is correct.

Q But he walked out on his own or under his own strength?

A Yes.

Q Didn't somebody grab him and yank him out?

A To my knowledge nobody grabbed and yaked him out.

Q Now, I want to make sure we know what you and Officer Schlegel and Officer Anderson - is it Anderson?

A That is right.

Q Who is the fourth one?

A Mr. Rice.

THE COMMISSIONER: Who?

A Mr. Rice.

Q MR. SCOTT: Mr. Rice, okay. What were Mr. Rice and Mr. Anderson doing at this point?

A This, I could not observe, because I had the keys in my hand to the door.

Q Where was Officer Schlegel?

A He was behind me.

Q So, you were the person that was looking directly into Rocheleau's cell?

A I was theperson that opened the cell door.

Q And you were the person that was standing in front of the cell closest to the cell door?

A Somewhere near the area.

Q And you say that Schlegel was behind you?

A To my knowledge, he was.

Q That Rice and Anderson, you don't know where they were?

A They were down there with me. They could have been standing in the hallway.

Q But you don't know where they were but that they were somewhere down there?

A Approximately three feet away.

Q In which direction?

A Maybe to my back.

Q To your back, okay. Now, you are sure that no one or that none of the officers went in and struck Rocheleau while he was in the cell?

A No.

Q Did you have any billy clubs with you?

A No, we didn't have any billy clubs with us.

Q Did you have any type of what we might call weapons or mechanisms which might be used to subdue a prisoner at all?

A No.

Q No tear gas, no mace?

A What is mace?

Q Well, we won't call it a mace, then. Did you have any type of substance which could be sprayed in a prisoner's face?

A No. Not that I could see, no.

Q Or used to be sprayed in the area or to subdue him?

A Not that I could see. Not unless some of the other officers had it.

Q You are sure that neither you nor Schlegel went in that

cell?

A No. This is about the fourth time you asked me and I keep saying no to you.

Q Okay, then. You are walking down the hallway and you are taking him by the barber shop. Is that right?

A Approximately in that area.

Q Now, I want to find out where each of the Correction Officers and the guards were in relation to Rocheleau. What were you doing at this point?

A We were behind him.

Q Now, you say you were behind him. Were you walking directly behind him?

A No. There was one on each side. I would say one on each side and one behind him.

Q Who was on the left of him?

A That, I could not tell you. I don't know.

Q Who was on his right side?

A I don't remember.

Q What were you doing at that time? Were you directly behind him?

A I couldn't tell you exactly where my position was.

Q Were you touching him?

A As I said before, we had our hands on his shoulders when he stopped to move any farther. While he was going down on his own, we were not touching him.

Q Nobody touched him at all?

A That is right.

Q And then he stopped?

A He stopped.

Q What did you do then?

A We informed Rocheleau, said, "Rocheleau, keep on moving", and we put our hands on his shoulders.

Q Did you push him?

A When he refused to move any farther, we were pushing him on the shoulders.

Q When you say "we" or else was pushing him?

A I would say Mr. Anderson, Mr. Schlegel and myself were trying to coach him along.

Q Were you giving him gentle nudges or were you pushing him quite vigorously?

A Gentle nudges.

Q And you say at this point that he just turned around and hit you?

A Yes. He became violent then when he stopped.

Q Did any of you sort of pin him up against the wall?

A No. We didn't have a chance because it all took place in the hallway.

Q Did you throw any blows at all even of a minor nature other than this general pushing that you described?

A No. The only blow was the one that I received in the face and was knocked to the floor.

Q Did you see either Rice, Anderson or Schlegel hit Rocheleau?

A No. From what took place there, we were on his back

at the time, forcing him down to the floor.

Q Forcing him down to the floor?

A We were trying to pin him on the floor.

Q And when you say "we" I take it you were part of that, then, were you?

A I, incidentally, got back up on my feet again.

Q I am sorry. I might have misinterpreted you originally, then. I thought you said you never did anything. However, as I say, I could be wrong. So, your testimony then, is that as soon as you were knocked to the floor you got back up again and you got on top of Rocheleau's back, is that right?

A We forced him down with our weight, wrestling him down.

Q When you were forcing him down, were you using your knees?

A I don't see how you can use your knees to force a person down.

Q Knees in his back.

A Pardon me?

Q Did anybody place their knees in his back?

A Forcing him down?

Q Forcing Rocheleau down to the floor.

A By placing our knees in his back, forcing him down to the floor?

Q Yes.

A No. I never heard of this way before.

Q Well, okay. Well then, how did you do it.

A We had him by the shoulders, pulling him down and hanging on to his leg.

Q Who was hanging on to his legs?

A This, I don't know offhand.

Q What were you doing?

A What do you mean what was I doing?

THE COMMISSIONER: I think he means, witness, what was your personal participation in the subduing of Rocheleau after you were struck. Is that it, Mr. Scott?

MR. SCOTT: Yes, that is it.

THE COMMISSIONER: Look, you have been knocked to the ground. You got up and you had taken part in subduing Rocheleau. Now, just tell us what you did after you got up and that part in subduing him, placing the handcuffs on him, to thebest of your recollection.

A To the best of my knowledge, we had a hold of his legs, ahold of his arms and we were pulling him down to the ground.

THE COMMISSIONER: And now Mr. Scott wants to know if you can recall what members you had ahold of? Was it the arms, legs, or some other?

A This, I don't remember. I could have had ahold of his leg or his arm.

THE COMMISSIONER: Were you in the act?

A There were so many feet and arms around, I couldn't tell.

THE COMMISSIONER: You imagine it was active?

A (No answer)

MR. SCOTT: I am sure it was.

Q Now, did you see anybody throw any blows? You know, hit him to subdue him, to retailiate by hitting?

A No, I didn't see any blows thrown.

Q So, you were just pulling his shoulders, pulling his arms and pulling his legs and trying to get him down to the ground?

A That is right.

Q I see. Which of the guards has white hair and speaks or which of the guards is the person who you were with that day which could be described as having white hair and a Scottish accent?

A Mr. Sharp.

Q Was Mr. Sharp there at that time?

A No. He was approximately 35 to 40 yards in front of us.

Q 35 to 40 yards? Are you sure you don't mean feet?

A Or it could have been 35 to 40 feet.

Q Have you talked to him about this incident?

A No, I haven't talked to him. It was entirely his own business.

Q Have you talked to any of the other men about the incident of the testimony that you were going to give today?

A No. I will just give the testimony on my own behalf.

Q But what I am wondering is whether or not you talked to these people to discuss what took place.

A No, I haven't.

Q Do you know whether Rocheleau was injured at all?

A To my knowledge, no, he wasn't injured. I don't see how he could have been.

Q Well, that's fine. If you say you didn't see any injuries, that's your testimony, then. Do you feel any animosity towards Mr. Rocheleau or Mr. Harwig today?

A Definitely not.

Q Did you at that time feel any animosity?

A No. I never felt any. As I said before, the only reason I wanted them moved out of the cell block was to prevent the other shifts from putting up with it and they were bothering the other inmates in the cell block.

Q Isn't it true, and I don't want to belabour the point, but it just seems to me that you were taking him from one cell where he was making noise to another cell where he would be making noise. Over to the segregation cell.

A If he makes noise down in the segregation cell, it doesn't bother the other inmates in the Institution.

Q But certainly it bothers the other inmates in the segregation cells.

A Well, not that much. I was concerned about the cell block itself. The population up there is quite heavy at all times.

Q So, what you are saying is that you can hear it all through the cell block when they make noise?

A That's correct.

MR. SCOTT: Thank you.

THE COMMISSIONER: Mr. Meurin.

CROSS-EXAMINATION BY MR. MEURIN:

Q. Sir, initially you indicated that Harwig pretended he was asleep on his bed?

A Yes, when the cell door was opened.

Q I take it that he got up out of the cell by himself and that no one came in the cell.

A I asked him to step out and come out of the cell, sir.

Q Did any of the Correction Officers, including yourself, go into the cell?

A No, sir.

Q Now, sir, as far as Rocheleau was concerned, after you were struck in the hall and he was subdued, handcuffs were placed on him. Is that correct?

A That is right, sir.

Q And were the handcuffs placed behind him or in front of him? In other words, Were his hands in front or behind?

A Behind his back, sir.

Q Do you recall who placed the handcuffs on him?

A No, I don't, sir.

Q Did you have anything to do with the placing of the handcuffs?

A No, sir.

Q Now, if I am correct, these handcuffs, as they are closed over a person's wrist, they automatically lock and then they don't come out any farther, is that correct?

A That is right, sir.

Q Do you recall closing these handcuffs over his wrists at all, sir?

A. No, I never had the handcuffs in my hand.

Q You never had the handcuffs in your hand?

A No.

Q Did you, yourself, at any time, have those handcuffs in your hand while they were on him? In other words, when did you squeeze them closed?

A No, sir.

Q You never squeezed them close at any time?

A No, sir.

Q Did you take them off when he was brought down into the segregation cell?

A No, sir.

Q You didn't take them off. Do you recall who took them off?

A No, I don't, sir.

Q I take it when Rocheleau was taken down to the segregation cells below the guard room, that the handcuffs were removed. Is that correct?

A This, I don't know for sure, sir.

Q You don't recall?

A I don't recall if they were taken off immediately or what, when he was taken down to the segregation cells.

Q Well, the standard procedure when these people are put in the segregation cells is that the handcuffs are

removed. Is that correct?

A That is right, sir.

Q But you don't recall exactly when they were taken off Rocheleau or if you took them off or who took them off?

A No, I don't. I never took them off, sir.

Q You did not take them off?

A No.

Q Do you recall Rocheleau bleeding or having any marks on his wrists from these handcuffs?

A Definitely not, sir.

Q When you were going down the hall, before you were struck, you indicated that you and the others were pushing Rocheleau along when he was getting reluctant. Is that correct?

A That is right, sir.

Q Up until the time that you were struck, did anyone kick Rocheleau or hit at him?

A Not that I could see, sir. There was no need for it.

Q Were you in a position to see that?

A Yes,he was in my view.

Q So, if somebody would have kicked him, you would have seen it?

A That is right, sir.

MR. MEURIN: No further questions.

RE-DIRECT EXAMINATION BY MR. PEACOCK:

Q How long did the scuffle last when you were trying to get Mr. Rocheleau subdued after you had been struck?

A Maybe a period of one minute. Maybe 30 seconds.

MR. PEACOCK: Thank you.

THE COMMISSIONER: Thank you, witness.

MR. PEACOCK: Five minutes, sir?

THE COMMISSIONER: Yes.

(Brief recess)

MR. PEACOCK: Call Patrick Sharp, please.

PATRICK SHARP, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Sharp, you are employed at the Calgary Correctional Institution?

A Yes, sir.

Q What is your position there?

A Correction Officer 1.

Q How long have you been employed there?

A About 8 months.

Q Were you employed in that capacity on June 23rd and June 24th, 1973?

A Yes, sir.

Q And on the evening of June 23rd, what shift were you on?

A Day shift.

Q And that is 8 until 4?

A 8 until 4, yes.

Q And do you recall that day having something to do with an inmate by the name of Harwig?

A No, sir.

Q Did you have something to do that day with an inmate by the name of Rocheleau?

A Yes, sir.

Q What happened?

A Well, I was on duty on "B" Range.

Q What does that mean?

A Well, there is "A", "B" and "C" Ranges.

Q Right. And you were in the charge of the "B" Range cell block?

A No. Mr. George was away for coffee or something. He wasn't there at that moment. I noticed on the six television sets this inmate wandering on "A" Range where he shouldn't have been. So, somebody else came in. I can't remember who it was and I went up to "A" Range and I asked the inmate, who was Rocheleau, to go back to his cell, but, he had - I can't say, a duralik (phonetics). He was very sullen and I asked him three times to go to his cell and he just looked out of the window and he shuffled along. Eventually he got to cell 20 and he turned around and says to me to "fuck off" and he raised his fists and I slammed the cell door, locked it and went down and reported it to Mr. George. He had already come back during this period.

Mr. George asked me if I wanted to lay a charge against Rocheleau and I said, yes. I charged him and Mr. George and Mr. Umpherville

up and took Rocheleau down to the dark cells.

Q What was the charge that you preferred against him?

A Using obscene language and threatening an officer.

Q Now, were you involved in the actual transfer of Rocheleau from the "B" Range to the meditation cells?

A From, "A" Range.

Q I am sorry, from "A" Range?

A No, sir. Mr. Umpherville and Mr. George had done it.

Q Was that the only incident on the 23rd of June?

A Yes, sir.

Q What was the next involvement that you had with this gentleman?

A I never had any involvement with him afterwards. The next day was the 24th. There was a ruckus down in the dark cells. Mr. Schlegel, Mr. George, Mr. Anderson and myself went downstairs and as I got down behind these gentlemen, Mr. George was opening the cell door and I squeezed past him and Mr. Schlegel, because somebody was trying to attract my attention at the door between the dark cell and "C" Range. It is a little four inch window. There was Mr. Umpherville and he was going like this (indicating five fingers) meaning the other inmate who was causing the ruckus was in cell 5.

Q Now, did you hear this ruckus?

A Oh, sure.

Q What did you hear?

A Well, it was a dull thudding that was going on for about

an hour and a half and it was vibrating and echoing all through the cell block.

Q So, when you got down there, you saw Mr. Umpherville through a window suggesting cell 5?

A Yes.

Q Who was in cell 5, do you recall?

A I don't know.

Q What happened when you got down there? You saw Mr. George was opening a cell door?

A Yes.

Q And which cell door was he opening?

A I couldn't tell you, sir.

Q Well, what happened?

A So, I squeezed past him and I heard him telling the inmate to come out.

Q Do you know what inmate that was?

A No, sir.

Q All right, what happened?

A At the time I went up to the little window, where Mr. Umpherville was, and I shouted to someone that the next cell is 5. I turned around and the inmate from that cell that Mr. George was opening up, he was walking up the hallway towards the exit and I was told to follow him. I went up and stood at the top of the stairs at the exit door and within 30 seconds of that, Mr. George came out and we went out of the cell block and came to the first bar gates and Harwig stood there when the gate

opened and he was told to move.

Q Now, was the inmate that you saw come out of the cell the first cell that Mr. George opened, was that the inmate known to you as Harwig?

A I didn't know him before, sir.

Q Well, do you know him now?

A Yes.

Q And was that who it was?

A Yes.

Q But you didn't know who he was at that time?

A No, sir.

Q When you saw Mr. George open his cell door and tell him to come out -

A I heard him, yes.

Q And did you see Mr. George or anyone go into the cell to bring him out?

A No, sir. I squeezed past him and Mr. Schlegel. I went out up to that small window.

Q Did any lengthy time elapse between the time George opened the door and the prisoner, known to you as Harwig, came out?

A It couldn't have been any more than a minute by the time I walked to them through that little hallway and turned around, Harwig, as I know him now, was walking down to the exit.

Q Was he running or did he seem to be in a pain or agony at that time?

A No. His back was to me at all times. He wasn't running. He was walking.

Q And then you went back and stood at the grill gate with this fellow that you now know as Harwig?

A Yes.

Q And then Mr. George came along?

A Yes.

Q And opened the grill gate?

A No. It opened automatically from a central point. And it opened and Harwig stood and Mr. George told him to get going and just gave him a little push.

Q Did you go with Harwig, then?

A Yes. He went around the corner and he got to the area of about the gymnasium. And he was about two steps in front of me and then he stopped and started coming back and he started shouting that the guards are ganging up on the other inmate , Rocheleau.

Q Were they behind you?

A Yes, sir.

Q Did you see the guards and Rocheleau behind you?

A Not until Harwig mentioned they were ganging up on him and I turned around and I saw Rocheleau strike Mr. George in the face and then all my attention from there on was taken up with Harwig because he was yelling and shouting and I told him to behave himself and for goodness sake to have some common sense; that he had himself to worry about and not the guy behind. So, he quietened down and

he was quiet from there to the guard room and I took him downstairs and locked him up in the meditation cell.

Q Now, when you were standing with Harwig and this altercation between the guards and Rocheleau was taking place, did you observe any of this altercation between the guards and Rocheleau except for the time he struck Mr. George?

A Well, I have been there 8 months and this is the first time I have been involved in an incident like that. I was all uptight. I was wondering where the devil the other guard was because there should have been two guards with an inmate, especially coming from or after causing a ruckus and I was worried more about myself than I was with what was happening behind me.

Q You were concerned with what Mr. Harwig might do?

A He was a young man, tall and stronger than me.

Q And at that point he was yelling and hollering about the treatment tha t Rocheleau was getting behind you?

A Yes, sir.

Q Aside from that, did he do anything to you?

A No. He listened to me and I told him to use his common sense and I had just done some fast talking and the young fellow came along quietly.

Q And you got him downstairs without incident?

A Yes, sir.

Q Did you start moving Harwig down to the segregation cell while this ruckus was still going on or had it subsided

by the time you started to move Harwig?

A I don't know. As I said, all my attention was on this young guy.

Q And you got him down there without incident?

A Yes, sir.

Q Were you down there when the guard brought Mr. Rocheleau down afterwards?

A No, sir.

Q So, you didn't see Rocheleau again that evening?

A No, sir.

MR. PEACOCK: Those are all the questions I have. Thank you.

THE COMMISSIONER: Mr. Stilwell.

MR. STILWELL: No questions, sir.

THE COMMISSIONER: Mr. Scott.

CROSS-EXAMINATION BY MR. SCOTT:

Q To clarify a few points; when you saw Rocheleau in the afternoon of the 23rd, Mr. Sharp, you say he was wandering around in the "A" Range and you approached him and he appeared to be very sullen?

A Yes.

Q You then told him to get back to his cell?

A Yes, sir.

Q And I take it he did move back to his cell, did he?

A Yes.

Q And it was when he got back to his cell and was in fact inside his cell that he turned around and told you what

he told you?

A Yes.

Q Now, I don't mean to belabour that point, but when he made that statement and then he raised his fist at you. Right?

A Yes.

Q But he was inside the cell?

A Yes, sir.

Q And then you slammed the door in his face?

A Yes.

Q I take it he didn't throw a punch or anything. He just raised his fist ?

A No. I was well back from him.

Q Now, let's go back down to the meditation cells in the afternoon of the 24th. That is the next day. You said that you saw George and Schlegel opening the cell door?

A Mr. George opened the cell door.

Q He was in fact opening it? Is that right?

A Yes.

Q And Mr. Schlegel was standing there with him?

A Yes. And Mr. Anderson.

Q And they were all, I take it, sort of grouped around the front of the door?

A Well, Mr. Schlegel, I think he was next to the wall. It is only four and a half feet wide. There is a very narrow hallway there.

Q So, Mr. George was opening the door and Schlegel is leaning

against the wall?

A Somewhere in that area, yes.

Q And Mr. Anderson, where would he be?

A I think he was up to the side next to the "C" Range door. He was opening the door this way (indicating) and Mr. Anderson would be here (indicating).

Q How far away would he be from Mr. George?

A I never paid any attention. They were all grouped together.

Q Well, okay. Is it safe to say, then, that they were all really quite close together, within a few feet of each other?

A Yes, I would say that.

Q And you squeezed through?

A Yes.

Q And you went walking up to cell number 5 because the other guard had given you the hand signal, 5?

A Yes.

Q And then a period of time passed right approximately a minute, you said,when you turned around?

A Yes.

Q At that point you saw Harwig walking down the corridor towards the exit out of the meditation cells?

A Yes.

Q Is that right?

A Yes, sir.

Q Okay. Now, you get upstairs and in the area of the

gymnasium you are escorting Harwig?

A Yes, sir.

Q And as I understand it, you were the only person that was really escorting Harwig?

A Yes, sir.

Q You heard Harwig say or to stop, turn around and then say something to the affect that the guards are ganging up on the other inmate?

A Yes.

Q And then you saw Rocheleau hit Mr. George in the face?

A Yes.

Q Now, isn't it true that Mr. Harwig appeared he was concerned about Rocheleau?

A (No answer)

Q He wanted to go back and help him, didn't he, and talk him out of it?

A Yes, sir.

Q But in order to get to my next question, he did appear concerned about him and he was making indications to you that he wanted to go back and help him. Right?

A I don't know if he was making indications, but he was shouting about it.

Q And you told him to look after himself and not to be a fool and get involved in this incident, that it was someone else's problem and that he should look out for himself?

A Yes, sir.

Q And did he? He didn't go back there.

A That is right.

Q Do you recall what you saw or can you recall anything that you saw happening to Rocheleau at the time? In other words where was Rocheleau or what happened to Rocheleau after he threw the punch?

A I just saw green shirts.

Q All over the top of him?

A No. I just gave a glance and drew my attention back to Harwig. I had a young man with me and I didn't what he was capable of.

Q Right. I think we all understand your concern with your prisoner. Harwig was your prisoner. Right?

A Yes.

Q But at that time Harwig wasn't either being assaulted or assaulting anyone else and we are concerned about what was happening really to Mr. Rocheleau at that point. And what I want to know, and the Commission wants to know is when you saw what was happening between the guards and Rocheleau - and I take it your answer today is that you saw Rocheleau throw a punch, hit Mr. George and then you saw a bunch of green shirts, which I take it are the guards' shirts?

A Yes, sir.

Q Do you recall whether you saw those green shirts grabbing Rocheleau?

A No. I just saw the green shirts and I turned my attention

back to Harwig. It was just a quick glance.

Q And you didn't see anything else of the incident?

A No, sir.

Q However, you definitely recall that Harwig drew your attention to the fact that he said the guards were beating up on Rocheleau?

A Yes.

Q And it was after that, that you saw the punch thrown?

A Yes, sir.

MR. SCOTT: Thank you.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, I take it you were escorting Harwig to the segregation cells below the guard room by yourself?

A Yes, sir.

Q And you would have been some distance ahead of the other guards and the other prisoner?

A Yes. I would say 15 or 20 feet. It was just a quick glance. I can't say for sure.

Q Now, Harwig came out of his cell, in the meditation cell first, I take it. He came out before Rocheleau?

A Yes.

Q And did you escort him up the stairs from the meditation cells and down the hall?

A Yes. He came down the hallway and I followed him up to the top of the stairs and we waited and Mr. George came about 30 seconds or a minute afterwards and both Mr. George and I went out the cell block to the first bar gate

and then Mr. George told me to take him from there on.

Q Did any one of the Correction Officers go into Harwig's cell?

A I couldn't tell you, sir. My back was to him. I passed Mr. George while he was opening the door.

Q Did anyone go in Rocheleau's cell?

A I was up and outside while they were opening it. I couldn't tell you. I went out with Harwig. He was the first inmate that was released from the dark cell.

Q Now, I take it Harwig came out without any resistance when he came up to you?

A Yes.

Q All the way down the hall he didn't resist you?

A No, sir.

Q Did you have to push him?

A No, sir.

Q At no time did you have to lay a hand on him?

A No, sir.

Q Now, did you escort Harwig all the way down into the segregation cells?

A Yes, sir.

Q And when you got down there, there were other inmates in the segregation cells?

A Yes, sir.

Q Was there any conversation?

A Yes, sir.

Q Was the conversation to the effect that the other inmates

were asking Harwig what was happening?

A No, sir. Harwig told them.

Q Harwig told them?

A Yes.

Q Did he use remarks to the effect that the guards were beating the shit out of him and another guy?

A No, sir. Not as far as I can recall.

MR. MEURIN: I have no further questions.

RE-DIRECT EXAMINATION BY MR. PEACOCK:

Q When you were at the end of the segregation cell hall, getting these signs from Mr. Umpherville, that was when Mr. Harwig's cell door was opened, was it?

A Yes, sir.

Q Did you hear any struggling going on or what sounded like a struggle or a fight going on in Harwig's cell?

A No, sir.

Q Do you recall hearing any of the guards hollering at Harwig or Harwig hollering at any of the guards?

A No. Mr. George, I just heard Mr. George telling him to come out.

Q Did you hear any yelling or hollering between the guards and Mr. Harwig after Mr. George said to come out?

A No. Not that I can recall.

MR. PEACOCK: Those are all the questions I have. Thank you.

THE COMMISSIONER: Thank you, Mr. Sharp.

MR. SCOTT: I am sorry, could I just have one more?

THE COMMISSIONER: Yes.

RE-CROSS-EXAMINATION BY MR. SCOTT:

Q Tell me, have you ever heard the word "digger" used to describe the meditation cells?

A No, sir.

Q Have you ever heard the word "hole" used?

A Yes.

Q And I take it the word "hole" is sort of a common slang way to describe it, is it?

A Yes, by the inmates.

Q Do you hear them describe it as the hole most of the time when they describe it?

A Yes.

MR. SCOTT: That's all. Thank you.

MR. PEACOCK: Thank you, Mr. Sharp. Perhaps we could adjourn until 1:30, sir.

THE COMMISSIONER: Yes, 1:30.

(Inquiry adjourned to 1:30 p.m.)

OCTOBER 12th, 1973

DEPOSITIONS TAKEN AT 1:30 P.M.

THE COMMISSIONER: Mr. Stilwell.

MR. STILWELL: I have in my hand an editorial from The Calgary Herald for October 11th. It doesn't require any comment because it speaks for itself. I respectfully request that it be filed as an exhibit in these proceedings.

MR. PEACOCK: For what purpose?

MR. STILWELL: Partly for historical purposes. To set in perspective the circumstances under which this inquiry is being held and it may help to interpret the evidence in the mind of some person who reads it months or years from now.

THE COMMISSIONER: May I see it, Mr. Stilwell?

MR. PEACOCK: I suggest, sir, that if it had any probative value it could be admitted. My understanding of an editorial is it is something that an editor writes on the basis of an opinion, not on the basis of evidence or testimony heard. I suppose it could be admitted to show that it is an editorial.

THE COMMISSIONER: Mr. Scott?

MR. SCOTT: I know what it says.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: I have no comment, sir.

MR. SCOTT: I have no objection to it

being entered.

THE COURT: Mr. Stilwell, I am not trying to delude anybody that I haven't read it. I just want to see if it is the same one. All right. File it.

EXHIBIT 50 - EDITORIAL.

MR. PEACOCK: I will call Mr. Rice, please.

ALLAN RICE, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q What is your full name?

A Allan Rice.

Q Mr. Rice, you are employed at the Calgary Correctional Institute?

A I am.

Q What is your position there?

A Correctional Officer 1.

Q How long have you been --

A Approximately six months.

Q And were you employed as a Correctional Officer 1 at the Institute on June 24th of this year?

A Yes, sir.

Q What were your duties that day?

A I was working in the cell block crew.

Q And what were your specific duties, were you in charge of the cell block?

A I think I was second officer on "A" Range.

Q What does that entail?

A General supervision. Escort inmates to picture shows and exercise, church.

Q Do you centre yourself in the cubical and move from there?

A Sometimes in the cubical, sometimes we are watching from t.v. cameras and down each Range.

Q What shift were you on on June 24th?

A Day shift, 8:00 to 4:00.

Q And that afternoon was there a disturbance in the cell block?

A Yes. There was a continuous banging for about 90 minutes.

Q Where did that come from?

A Came from the dark cells.

THE COMMISSIONER: The south cells.

A The dark cells, sir.

THE COMMISSIONER: The dark cells. Thank you.

Q MR. PEACOCK: Those are otherwise known as the meditation cells?

A I believe so, sir.

Q And they are downstairs, are they?

A Yes.

Q And this banging went on for about 90 minutes?

A I would think so, sir.

Q Did you hear it from where you were?

A Yes, sir.

Q Were you able to tell what it was from where you were?

A It was doors banging the -- the leeway between the latch and the doorjam?

Q Of the doors?

A Yes.

Q Now, what happened that day, could you just tell us what your involvement became?

A My involvement became approximately 3:40, somewhere around that time, when Mr. Schlegel and Mr. Anderson came down from the guardroom and went downstairs, and Mr. George and Mr. Sharp and I followed down behind them. Inmate Harwig's cell was opened. He was told to get out which he did so.

Q Now, who opened Harwig's cell?

A I don't know. I was at the back and it is only a narrow hallway like down there. I couldn't really say who opened it.

Q Did you hear someone tell Harwig to come out of his cell?

A Yes, sir.

Q And do you recall who that was?

A No, sir.

Q How long of a time elapsed between the time when he was told to come out and he did come out?

A Well, from the time he -- he would get -- take from getting from his bed to the doorway.

Q I see. Was there any delay in him getting out from the time

he was told to get out?

A There didn't seem to be.

Q Did he come out on his feet?

A Yes, sir.

Q Was he walking or running?

A He seemed to just walk out and stand in the hallway. I stood next to him then as he was coming out.

Q I see. Then what happened?

A I think -- I am not sure if his -- his cell door was closed and he went to inmate Rocheleau's cell.

Q Now, before we go there. When Mr. Harwig's cell was opened did any of the officers go into his cell?

A I didn't notice anybody going in.

Q Now, you went to Rocheleau's cell at that time. Did you stay standing with Harwig?

A Yes, more or less opposite Harwig's cell.

Q And what happened?

A Rocheleau was able to get out. He didn't come out as quickly as Harwig. But then again he came out.

Q Did anyone go into the cell to get Rocheleau?

A I think, I am not sure, but I think I saw a green shirt going in there. I didn't know which officer it was.

Q All right. And Mr. Rocheleau came out of his cell?

A Yes.

Q What happened when Rocheleau got out in the hall?

A In the hall downstairs?

Q Yes.

A I didn't see anything. They were just taken upstairs then.

Q All right. Now who took them upstairs?

A Well, myself, Mr. Sharp, Mr. George, Mr. Schlegel and Mr. Anderson.

Q And who went up the stairs first?

A I can't remember.

Q Were you with Harwig or Rocheleau?

A I think I was behind the group coming out, sir.

Q And the inmates would be ahead of you?

A Yes, sir.

Q So you weren't accompanying anyone specifically?

A No, sir.

Q What happened then?

A I think there was a couple of other guards opening the cell block door, just holding it open so they can get out quickly. And there was aid outside, and I went back to work in the cell block.

Q All right. Now, during this time you were down in the meditation cell getting these two prisoners out did you at any time see an inmate strike a guard?

A No, sir.

Q Did you at any time see a guard strike an inmate?

A No, sir.

Q When you were standing back waiting for both Harwig and Rocheleau to come out of their cells did you hear anything within the cells that sounded like a scuffle?

A No, sir.

Q Did you hear anyone yelling at anyone else?

A I am not sure if I heard Harwig saying, "What is the matter?", or something, I am not sure about that.

Q All right. After they were escorted out of the cell block into the main hall you went back to your duties in the "A" Range?

A Yes. We were serving supper at this time.

Q Was there any more noise from the cell block after these two gentlemen were removed?

A No.

MR. PEACOCK: Those are all the questions I have. Would you answer other counsel, please.

THE COMMISSIONER: Mr. Scott?

CROSS-EXAMINATION BY MR. SCOTT:

Q When you went into the meditation cell area where were you standing?

A As I came down after the other guards went down so I was standing at the back just slightly to the right of Harwig's cell when it was opened.

Q As you were facing it or --

A As I was facing it.

Q Slightly to the right of Harwig's cell?

A Yes.

Q Did you see into the cell?

A No.

Q You saw Harwig leave the cell?

A Yes.

Q Where was Mr. George at the time that he was leaving the cell?

A I don't know where Mr. George was.

Q What about Mr. Schlegel?

A I didn't notice what positions they were in at all.

Q Can you recall seeing them at that point?

A Not specifically, no, sir.

Q When you went downstairs did you see -- excuse me. When you went downstairs and you went into the meditation cell area was the door to Harwig's cell already opened?

A No, it was just getting opened I think.

Q It was just getting opened. This is quite important. Was it just getting opened, can you recall at all?

A I think it was half open I think. I think it had been unlocked and they were just opening it.

Q Do you recall who was opening it?

A No, I don't.

Q So in actual fact then the door would be open, I mean it would be ajar --

A Yes.

Q -- to a certain degree, is that correct?

A Yes.

Q Then you subsequently saw Harwig walk out?

A Yes.

Q Did you see Rocheleau come out? Did you in fact see Rocheleau come out of his cell?

A Well, there were no more guards. It was a narrow hallway. There were some guards in front of me. I didn't actually see him walking out, not that I remember.

Q You didn't see the physical act of Rocheleau coming out of his cell?

A I think I saw his face, but that is all.

Q That is all. Do you know where Mr. Schlegel was when Rocheleau was coming out of his cell?

A No, I'm afraid I don't.

Q What about Mr. George?

A No, as I say, there was a few guards in the hallway, I didn't know -- I was watching the inmates. I was watching Harwig really because he was standing by me.

Q Can you recall seeing Mr. George and Mr. Schlegel at the point when Rocheleau was coming out of his cell?

A No, sir.

Q You didn't see what took place after the prisoners were escorted from the cell block area, is that right?

A No, sir. I saw Mr. George come back with a cut on his face and blood coming from it, when he came back to the cell block.

Q When he arrived where was the blood coming from?

A I'm not even sure, sir. I forget. It was a long time ago. But I noticed he wiped some blood from his face.

Q But you don't know where it was coming from?

A No, sir.

Q Did you hear anybody yelling at any point after they were escorted from the cell block?

A No, sir.

MR. SCOTT: Okay. Thank you.

MR. MEURIN: No questions, sir.

MR. PEACOCK: One further question.

RE-DIRECT EXAMINATION BY MR. PEACOCK:

Q From the time that Harwig and Rocheleau were brought out of their cells until they got up to the main hall are you saying that no guards pushed them or shoved them or kicked them along that hallway?

A No, sir. Of course there was 5 guards going up the stairs plus two inmates, which was quite a crowd going up the stairs at once. That is all.

Q I see. Thank you.

A I would also like to say that when I was told about this inquiry and the report I asked the inmate Rocheleau what the date was and he didn't know for sure. The next day he said to me what did he have to lose, he said they couldn't do anything worse to him than what he was getting downstairs. That was last week he said this to me.

THE COMMISSIONER: What day?

A I am not sure, sir.

THE COMMISSIONER: Did you not make a note of that?

A No, sir.

THE COMMISSIONER: Well now, --

A He just came up to me when I was working in the north wing where he was placed and he said to me --

THE COMMISSIONER: Mr. Peacock, I would like that pursued, please.

MR. PEACOCK: Now?

THE COMMISSIONER: Yes.

RE-DIRECT EXAMINATION BY MR. PEACOCK:

Q You can't recall the date that this occurred?

A I can check back on the log book that is in the Institution. It was approximately a week ago.

Q And you were stationed in the north wing?

A Yes.

Q Rocheleau was stationed in the north wing as an inmate?

A Yes.

Q And was this just a casual conversation that came up between you?

A Rocheleau is the type of person that comes to you and talks to you.

Q THE COMMISSIONER: Did he come to you?

A He came to me and was talking about this.

THE COMMISSIONER: I am not familiar with your routine. Did he leave his cell or --

A I am not sure where he came from. Probably when he came back from supper, sir. When they come back from supper they all come through the one door and where they are counted.

Q MR. PEACOCK: He approached you?

A Yes, sir.

Q What exactly did he say to you?

A I'm not sure of the exact words. But he said he had nothing to lose, they couldn't do anything more to him than what was being done already, being down in the dark cells.

Q Did he make any specific reference to this particular incident?

A That is all he said, sir.

Q Did you say anything to him?

A I'm not sure, sir.

MR. PEACOCK: Perhaps you would answer other counsel, please.

THE COMMISSIONER: Mr. Stilwell? Mr. Scott?

MR. SCOTT: I don't have any questions.

THE COMMISSIONER: Mr. Meurin?

MR. MEURIN: No,sir.

EXAMINATION BY THE COMMISSIONER:

Q Now, you mentioned that you said you had discussed this

with Rocheleau?

A I asked for the date, sir.

Q Well now, when you asked for the date is this the time that you had the conversation?

A No, sir, it was the next night, sir.

Q The next night?

A Yes, sir.

Q It was the day before when you asked Rocheleau what date it was?

A Yes.

Q Do you have a log or something that you can refer to?

A There is a log book in the cell block. I went up there and I didn't have any idea what date it was. I didn't know what month it was. I had one look through the log book itself and I couldn't --

Q Now, when did you first learn that you would be called in this inquiry?

A I came on duty at 4:00 o'clock on my last week. Mr. Merriam gave me a slip of paper. I --

Q But it was some two or three -- a couple of months later?

A Yes.

Q Probably three months later, almost.

THE COMMISSIONER: Anything arising out of that, gentlemen? Thank you.

A Thank you.

MR. PEACOCK: Thank you, sir.

(Witness retires)

MR. PEACOCK: I will call John Schlegel, please.

JOHN SCHLEGEL, having been previously sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Schlegel, you previously testified you were an Assistant Deputy Warden on July 17th, 1973, at Calgary Correctional Institute?

A Yes, sir.

Q And you were so employed on June 23rd and June 24th, 1973?

A Yes, sir.

Q On either one of those latter dates did you have occasion to become involved in events involving inmates by the name of Rocheleau and Harwig?

A Yes, sir, on the 24th.

Q On the 24th of June?

A Yes, sir.

Q Where were you stationed that day?

A I was in the guard room at the particular time when a telephone call was received from the cell block by Mr. George to the guard room. The other officer in charge of the shift answered the call and he said; "You better come up to the cell block", that two of the inmates were banging the doors, and creating quite a racket throughout the whole cell block and that they would have

to be removed before the other -- before the evening shift where they are permanent.

Q Did you as a result go down to the cell block?

A Yes, I did.

Q Who accompanied you?

A There was myself, Mr. Anderson from the guard room, Mr. Norm George, the officer in charge of the cell block, and Mr. Sharp and Mr. Rice.

Q Now, what happened when you got to the cell block?

A We all went down to the cell block and Mr. George was ahead of us. He had a key and he opened up Cell No. 5. Inmate Harwig was in there. He said; "Oh, okay, Harwig, come out of there, you are moving to the front", something to that effect. Harwig came out of his cell. We went up to the next cell, Cell No. 4. Norm George opened the door. He says; "Rocheleau come out, you are going up to the front", Harwig had immediately come out of his cell so he was away from us. He was approximately, oh, 7 to 8 feet. Mr. Sharp had more or less gone along with him so Harwig and Mr. Sharp were away from us when we opened the cell of Rocheleau. Anyhow Rocheleau came right out of his cell. We went through the gate. They put their slippers on. Both inmates stopped then, put their slippers on. From there we proceeded upstairs and into what we call the segregation area. We were going to take them to the front.

Q Let me just interrupt and go back. The first thing you did when you got down -- I take you are down into the meditation area, are you?

A Yes, true.

Q And the first thing that happened was Mr. George opened the door to the cell housing Mr. Harwig?

A Yes.

Q And was it Mr. George who told him to come out?

A Yes, he did. He said; "Harwig come out".

Q And did Harwig come out?

A Yes, he did.

Q Did he say anything to you or Mr. George when he came out?

A No.

Q Did either you or Mr. George enter his cell?

A No.

Q Did either you or Mr. George apply any force to get him out of his cell?

A No, we didn't.

Q Did you push him or kick him in the hallway?

A We never touched Harwig.

Q That is your evidence under oath today?

A Yes, sir.

Q How about Rocheleau when he was asked to come out, did either you or Mr. George enter his cell?

A No, we still -- Norm George was standing to one side. The

door opens this way. He was standing on one side and I am standing on the right hand side facing the cell. Norm said; "Rocheleau come on out of there", and Rocheleau came out. We didn't have to take him out or anything. He came out on his own.

Q Who was out of their cell first, Harwig or Rocheleau?

A Harwig.

Q And is his cell closer to the door leading out of the meditation area or farther from it than Rocheleau's?

A Farther from the door.

Q So that in order to get Rocheleau from his cell to the exit away from this area, you wouldn't be passing Harwig's cell?

A No. No, we had to pass Rocheleau's cell to get to Harwig. Harwig was first.

Q Harwig would come past Rocheleau's cell to get out, is that right?

A Yes.

Q All right now, when Rocheleau got out did either you or Mr. George or any other officer strike him then?

A No.

Q Did either you or Mr. George or any other officer kick him?

A No, sir.

Q Did either you or Mr. George or any other officer push him?

A No, sir.

Q He proceeded under his own steam to the stairs?

A He came out of the cell himself.

Q And he got up into the main hall?

A Yes. He came out and Mr. Harwig and Mr. Sharp had been away from the cell. And they had to stop there and put their slippers on. And then none of us can get out of the cell block until the officer in charge lets us out. So we were all there together before we moved out of that area. That is after leaving the meditation cells.

Q All right, what happened then?

A We proceeded up to the front end area, what we call the -- some call it isolation cell or --

THE COMMISSIONER: What do you call it, Mr. Schlegel?

A Well, it is an isolation cell to us.

THE COMMISSIONER: I see.

A Some call it isolation, and I wrote it down, the words, some call it segregation.

Q MR. PEACOCK: This is the area underneath the guard's cubicle?

A Right underneath the guard's cubicle. We were proceeding to this area when we got out of the cell block. Now inmate Harwig and Mr. Sharp -- Harwig was walking normally, and they got ahead of us and they were a fair distance ahead.

Rocheleau was a little bit refusing to move sort of a thing. We walked along with him. He was poking along. We got out of that area. We came along coming up the straight hallway. By this time Harwig and Mr. Sharp are a fair distance ahead of us. We were going along with Harwig -- or with Rocheleau, sorry, and he sort of stopped/as though he was -- he wasn't going to go. Mr. George was on his left hand side. I was on his right hand side. I said to Harwig -- or sorry, to Rocheleau; I said, "Come on, Rocheleau, let's get going." I had a hold of him by the shoulder and one hand here. Just at that time he --

THE COMMISSIONER: Where was your right hand?

A Trying to get ahold on his arm, the one arm. I had it this way here, I had one hand on the shoulder here and one hand here like this. Because he was more or less stopped, refusing to go ahead, and we had ahold of him like this, we were going to more or less move him along. It was just at that time then Rocheleau he whipped around and he struck Mr. George and he knocked him down.

Q MR. PEACOCK: How did he hit him?

A I didn't see him hit him. It all happened so fast that all I can say is his arm came around and the next thing I knew Norm George was knocked down, because he was knocked

down, he didn't fall. And then we all jumped on Rocheleau more or less wrestling him down to the ground, because he was flinging his arms around and legs and whatnot.

Q How many guards were with you at this time?

A There was the three of us. There was -- at that time would be Norm George, myself and Mr. Anderson.

Q Mr. Sharp was ahead?

A Mr. Sharp was some fair distance ahead with inmate Harwig.

Q Now, you say you subdued Rocheleau and got him on the ground?

A Yes. We held him down. Somebody hollered for a pair of handcuffs. We got a pair of handcuffs and we handcuffed him. Put the handcuffs on him, and lifted him up and we had to move him along to the front area because he was reluctant to go on his own. He was flailing along with his legs and that sort of manner.

Q Now, when you were subduing him did you strike Mr. Rocheleau in the face?

A None of us struck him. I didn't strike him, no.

Q Did you see anybody else strike him?

A No, I did not.

Q What were you doing?

A We were trying to hold him down to the ground.

Q And what did you have ahold of?

A Anything I could get ahold of, and I couldn't remember right now.

Q And the three of you ultimately got him on the floor?

A Yes.

Q And you handcuffed him?

A Yes.

Q Did you handcuff his hands behind him or in front of him, or do you recall?

A At this time I can't recall. I really can't. We try to handcuff behind their backs so that they can't cause any further damage, but at this time I can't tell you because we were too busy with him.

Q After you got the cuffs on you continued him down the hall?

A Yes.

Q You say he was moving reluctantly at that time?

A Yes, he was.

Q Did any of you strike him on the way down the hall?

A No, we did not.

Q And did you accompany him right down to the segregation cells?

A Yes, I did.

Q Was the inmate Harwig going along with you or ahead of you?

A He was quite a ways ahead of us then.

Q And Mr. Sharp was still with him, was he?

A Yes.

Q What happened when you got down to segregation?

A They were just put into cells. Harwig was put into a cell. I can't even tell you the cell now. And then Rocheleau was put in a cell. We took the handcuffs off, and there was no problem once we had them down there.

Q Did you end up in a shouting match after you got him down there with some of the other inmates who were in that cell block area?

A Some of the other inmates were, I believe, giving us a little bit of static.

Q Did you go into one of the cells of one of the inmates?

A No, I did not.

Q Are you saying --

A I am sorry, sir. Just a moment now. I am sorry. I recall there was one inmate there and he uttered some sort of -- some sort of threat to us. I can't recall the exact threat. That he was going to knife us or something, and there was two of us went into the cell to search that cell.

Q Did you strike that inmate when you were in there?

A No, we did not.

Q Do you recall him calling you a name when he was yelling this threat at you?

A I can't recall the exact name he called us. He -- no, I can't say what name it was.

Q Did you use any gas or mace on this inmate when you were in there?

A Not to my knowledge. I didn't have any on me.

Q Who went in there with you, do you recall?

A Mr. George.

Q You say you didn't strike the inmate who was in there?

A No.

Q Do you remember who the inmate was?

A I believe it was an inmate by the name of Kemp.

Q Did you observe Mr. George striking the inmate?

A No, I did not.

Q Had you had any previous problems with this inmate Rocheleau?

A Yes, I had a few.

Q Would you tell us about those?

THE COMMISSIONER: That is prior to this event?

A Yes. My nature was of the effect that this inmate was brought in front of Warden's Court -- sorry, the Warden -- Mr. Stanton. The Warden was away at that time, the particular time. Because some other officer had problems with this inmate. When this inmate was taken to Mr. Stanton I was called upon to escort him in there. And so actually he was no personal problem to me. How I was involved was that I was the one that was to take him in there. And at that time I spoke to Mr. Stanton. It was my own personal opinion. I said; "I think we have

got a dangerous one here, I think we are going to have trouble with."

Q What did you know that caused you to form that opinion?

A Maybe sixth sense, or whatever you wish to call it. We know a little bit about these inmates while they are within the Institution. So the other officers had a few problems with him. We had written to another institution in Regina and we had a report back on him that the problems that they had with him. So this more or less varified what I thought about him.

Q MR. PEACOCK: Would you answer other counsel please, Mr. Schlegel

CROSS-EXAMINATION BY MR. STILWELL:

Q I am going to have to ask you some questions, which I will phrase hypothetically owing to the fact that you are in the position of answering a complaint that the inquiry hasn't heard yet. Now, let's get down to meditation. If Rocheleau says this, if he says first of all that you came into his cell and took him out, --

A Yes.

Q -- what is your answer to that?

A No.

Q If he says; "I started getting up when Mr. George attacked me and I was thrown to the floor. At this time they were kicking me and telling me to get up". What would your response be to that?

A It is not true.

Q If he says; "They were kicking me and pushing me along the hall telling me to speed up, at which time I was walking as fast as possible without running and they still continued to kick and push me", what would your answer be to that?

A We didn't kick and we didn't push, or if you call the word push until he stopped and then is when we took ahold of him and we were forcing him along.

Q Now, lets turn to Mr. Harwig. Did you ever enter Mr. Harwig's cell?

A No, I did not.

Q If he says as follows: He was lying on his bed and suddenly the door opens and in comes Mr. Schlegel followed by Mr. George and two other guards. Mr. Schlegel sat on my chest with a jump, grabbed me around the neck with one hand and with the other hand bent my left arm down over the side of the bed. What would you say to that?

A It is not true. There were only two of us officers at that door. The other three were coming -- would be farther away from that cell.

Q And you were never in Harwig's cell at all?

A No.

Q So it is all -- either he imagined it or it is simply a lie?

A Well, we did not go into those cells to get those men out.

Q Do you happen to know that Rocheleau was in there for assault causing bodily harm?

A Yes. He had threatened one of the officers so I knew he was in there for that at that particular time. And like I say we had reports from other institutions on persons we were dealing with. So we sort of knew what type we were dealing with.

Q I am showing you a letter from Provincial Correctional Centre, Regina, Saskatchewan, dated June 25th, 1973. Would you tell the Inquiry whether you have seen this letter before?

A Yes, I have seen this letter. These incidents that we had was the day before this letter so I have seen this letter.

Q Would you read it please out loud?

A Yes. This is concerning Frederick Alexander Rocheleau.

THE COMMISSIONER: Mr. Stilwell, I will certainly give you leave to recall, have Mr. Schlegel recalled, but I think in fairness to the inmate perhaps that should be put to him and he be asked whether or not the allegations there are true. I am quite prepared to have the exhibit marked for identification now and certainly -- we will mark it.

MR. STILWELL: May it be "A" for identification.

THE COMMISSIONER: All right. If you could just ask him if you would, have you seen "A" for identification

and are you aware of the contents?

EXHIBIT A FOR IDENTIFICATION - LETTER DATED JUNE 25th, 1973.

Q MR. STILWELL: I am showing you now a photocopy of -- I suppose it is a charge sheet. It says at the top "Violation of Correctional Institution Regulations." And it contains the disposition of the charge. Would you look at that and see if you can identify it please?

A This is on Harwig, sir.

Q Yes, that is Harwig.

A Yes.

Q Does it show that he was convicted of an offence against institution regulations on the 23rd of June?

A Yes. He has given a guilty plea and he has had five days segregation.

Q And what was the charge?

A Refusing to work in the kitchen.

MR. STILWELL: May that be entered as an exhibit?

THE COMMISSIONER: Yes.

EXHIBIT 51- PHOTOCOPY OF CHARGE SHEET.

MR. SCOTT: I am sorry, is Mr. Stilwell through?

CROSS-EXAMINATION BY MR. SCOTT:

Q Mr. Schlegel, you stated that you had some -- had formed an opinion of concern about Rocheleau prior to this incident,

that is about him possibly being a potential difficult inmate?

A Yes.

Q Harwig, had you ever had any difficulties with Harwig?

A Several.

Q You had yourself?

A Institution -- Institutional violations that the majority of the time when these inmates are called up to Warden's Court I am present. So Harwig had several. Many.

Q One of these would be his refusal to work in the kitchen?

A And about 9 others.

Q And about 9 others?

A Yes.

Q Exactly 9 others or --

A Well, I have them here if you wish to see each one.

Q Maybe the Commissioner does. I don't.

THE COMMISSIONER: I didn't believe you would, Mr. Scott.

MR. SCOTT: I am not going to pursue that point unless you wish.

Q MR. SCOTT: Now, it is your testimony then that neither you nor any other guard laid -- actually even touched either of these inmates up to the point where you put your hand on Rocheleau's arm and shoulder?

A That is right.

Q Now, when Rocheleau turned around and struck Mr. George --

A Yes.

Q -- did you yourself at any time strike Mr. Rocheleau?

A No. We were -- at that point then we were trying to grab him and wrestle him down to the ground.

Q So therefore is it correct if I say to you that at no time then did you or any other guard in your observation strike either Rocheleau or Harwig or Kemp?

A In my observations nobody struck any of those inmates that I know of.

MR. SCOTT: Okay. Thank you.

THE COMMISSIONER: Mr. Meurin?

CROSS-EXAMINATION BY MR. MEURIN:

Q Mr. Schlegel, as far as you recall down in the segregation area the other inmate you had dealings with was an inmate by the name of Kemp, is that correct?

A He was in the segregation area, yes. He was the only one, yes.

Q That is below the guard room?

A Yes, true.

Q Now again I will have to put things to you in a hypothetical sense because we haven't heard any direct evidence of any complaint, but I will read the following, and it is referring to yourself. "He entered with the other guards and they put me down on my bed and proceeded to slap my body. Because I curled up into a ball and Schlegel couldn't get at my face, he took a can of mace and squirted

it all over my face and my mouth and nose and eyes. I dropped my guard, so Schlegel I think, I couldn't see because of the mace, landed a couple of good ones and then he and his crowd left." What would be your reaction if such a statement was made?

A. I didn't have any mace on me so I couldn't use it, and at no time did I ever have any mace down there that day.

Q Did you have any form of gas?

A No, I did not. None at all.

Q So you would have nothing that could be used to squirt at an inmate?

A How could I get it when I was wrestling Rocheleau from the cell block up to that area?

THE COURT: Who is hypothetically supposed to have said that?

MR. MEURIN: Kemp, sir.

Q Sir, did Rocheleau make any statement to you several days after this incident on June 24th?

A Yes, he did.

Q Could you tell us what the gist of that statement was as best as you can recall?

A Well, he admitted to me that he had a bad temper and that he -- could be a potential trouble-maker or that type. And he said; "I have got my head screwed on right now." He said; "At that time", he said, "I was in drugs quite a bit", and he said, "Probably I" -- well, more or less

signified that he acted the way he did because he was under -- coming out of drugs.

Q Withdrawal symptoms?

A Withdrawals, yes.

MR. MEURIN: No further questions.

CROSS-EXAMINATION BY MR. SCOTT:

Q With respect to this drug question, Mr. Schlegel, you have been associated with a system, correctional system, how long?

A 27 years, sir.

Q 27 years. And I understand as well that you have taken some training and courses, is that correct?

A Yes.

Q Now, is there any -- in your knowledge is there any system devised to determine within the system -- within your Institution, or Institution of which you are a Deputy Warden, Assistant Deputy Warden -- Deputy Warden, excuse me, is there any procedures to determine whether any of these inmates are in fact undergoing a reaction to the use of drugs or any other type of things that could affect them that way?

A Let me put it this way, sir. This was a remand prisoner at this particular time. Therefore he is not a sentenced inmate. He is not guilty at this time of any crime. So actually being a case like as such he would not concern

me anymore except that he would be going to court in a week or some such thing as that. It would not be my problem to decide that this inmate is filled up with junk and that I should be doing something with him.

Q But surely you acknowledge that he is an inmate at that point?

A Yes.

Q Within your Institution?

A Yes.

Q And as a result he is certainly under the rules and regulations of the Institution?

A Yes.

Q Right?

A And he can see the doctor. It is up to him to see the doctor. The doctor comes there to see him if he so wishes.

Q I am sure he can. What I am suggesting to you though is that notwithstanding the fact he is not a sentenced prisoner do you not agree that he is subject to the same rules and regulations as other prisoners who would offend the rules of the Institution?

A Yes, he was subject to the same rules.

Q In fact that is the reason why he was down in the meditation cells?

A He was put down -- just a moment, sir. He was put down

in the meditation cells. He was brought back from the gymnasium by an officer for a violation. When an officer told him to get into the cell he threatened that officer. From there on he was placed into the meditation cells.

Q And he was charged?

A Yes.

Q With an offence against the regulations?

A Yes.

Q Or in fact with two offences against the regulations?

A He was charged at that time with an offence against the regulations, yes.

Q So you are saying that actually you don't think it is your responsibility to determine, to pose a hypothetical case, that this man is withdrawing from the use of heroin, it is not your obligation to determine if this man is in fact undergoing withdrawal symptoms and might react adversely to the confinement of the meditation cells?

A So would it be my position to have a cell for each one of these people?

Q Well, I am asking you whether or not you take the position that it is not your obligation to find out if these people are in fact undergoing some type of reaction to a drug?

A He stated to me -- on this particular time when I had him up in front of the Warden -- or in front of Mr. Stanton,

it wasn't that I was concerned about his drug situation. I didn't say that. I said he appeared to me that he could be a dangerous individual.

Q You are not answering my question. I don't want to take up all the time just to get one answer, but I want to find out what -- you are a person of authority there?

A Yes.

Q You have a substantial amount of authority in this Institution, right?

A You want me to take him out of that area then and put him into a cell?

Q Let me ask the question, please. I want to know whether or not you feel it is your obligation or the obligation of the Institution, whether the Institution should determine whether or not this man, shall we say, is undergoing withdrawal symptoms from the use of a drug, especially if he is -- well, first of all, of any inmate. Let's take any inmate, remand or sentenced prisoner. Do you think that the Institution has the obligation to find out if that man is withdrawing from the use of drugs?

A How would you have us do this?

THE COMMISSIONER: Just answer.

Q MR. SCOTT: All you have to do is just answer the question. If you don't think it is then say no. If you think it is then say yes.

THE COMMISSIONER: Now, I wouldn't --

A Now , you are leaving it to me to make the decision of all the inmates that come in there I should possibly see them and ask them if they have been on drugs or whatever.

THE COMMISSIONER: He can't answer the question.

A I can't answer that question, sir.

Q MR. SCOTT: If you can't answer it, just say so.

A No, I can't answer it.

Q Now, you will agree with me that in this case though prior to the incident you were slightly suspicious about this man and his emotional stability, right?

A His attitude.

Q Okay, his attitude. Now, I may be wrong. Did you not say that you thought he may be subject to the influence of drugs?

A Not when he was at Warden's Court I didn't say that, sir.

Q Now, if you had known that this man was withdrawing from the use of drugs or was under the influence, whether withdrawing or not, but in any manner was under the influence, do you think this would affect your decision, and I don't speak for others, I mean your decision as to whether this man should be placed in the hole?

A No.

Q So you would place him down regardless?

A I didn't say regardless. I don't place the inmates in the hole. That is left up to the higher authorities.

Q As I understand it a man can be placed in the hole, in other words if you make -- if a guard makes a threatening motion -- or excuse me, an inmate makes a threatening motion and yells an obscenity to a guard he can come to you and make a complaint and then that man can be placed in the hole awaiting disposition in Warden's Court?

A That is right.

Q You don't need to go to the Warden?

A That is right. Yes, he can.

Q Let's take that case. If you knew that man was also -- was ill because he was withdrawing from the use of a drug would you still place him down in the hole in the meditation cells?

A You are asking me what I think or don't think. I didn't put him there. He was there.

Q That is right.

A If he was in withdrawal symptoms and -- I would still carry out the rules and regulations of the Institution because if he committed some violation against one of the officers he would be put in isolation cells.

Q You think that it therefore is the obligation of the prisoner to make -- if he feels that he is ill that it is the prisoner's obligation to ask for medication

and not the Institution's obligation to perhaps raise that point and bring in the medical authorities?

A Yes, I do. Let me tell you something. If he had said; "I am on withdrawal symptoms", I am quite sure that the Institution would have done something that we would have thought proper for him.

Q If he had said; "I am undergoing withdrawal symptoms", didn't say; "I want a doctor", or anything --

A If he said "I am going on withdrawal symptoms", I will practically guarantee you that he wouldn't have been put down there, that he would have been put up in a cell, and that is the best we can do for him.

Q Well, I don't know if that corresponds with your statements. but that is all the questions I have, thank you.

RE-EXAMINATION BY MR. PEACOCK:

Q Mr. Schlegel, supposing that one of these inmates refused to do something and he is under withdrawal symptoms, what can you do other than put him in the hole?

A We don't have --

THE COMMISSIONER: You are leading a little, Mr. Peacock.

A Well, I think they are, sir, because every inmate must conform to the regulations of the Institution. I can't help it if he comes in there under drug withdrawals and who am I to say that he is under drug withdrawals? I may make an observation.

MR. PEACOCK: That is all I have, thanks.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, I take it that if a person is known to be undergoing withdrawal symptoms from drugs that the standard procedure is to --

A He wouldn't have been placed down there, sir. He would have been put into an observation cell.

Q Where close watch can be kept on him, --

A Yes.

Q -- if necessary given --

A Yes, we have done this many a time.

MR. MEURIN: No further questions.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Schlegel, I am the only one that is allowed to lead here. In this instance I take it that the question of him being under withdrawal would rather go to the fact of whether or not a charge would be laid, am I correct in that?

A Yes. You see in this case, sir, no one is saying that he was under withdrawal. He told me several days after this incident, after this incident that his head was screwed on right now, that at that time he had been under drugs and he was himself more or less coming out of it. So this is something an inmate told to me weeks afterwards.

Q May I put this question to you. If and when a man has obviously some withdrawal symptoms --

A Yes.

Q -- certainly that would be taken into consideration in determining whether or not a charge would be laid for Warden's Court?

A They may lay a charge, sir, but they wouldn't put him down into the isolation cells. He would be in observation cells.

THE COMMISSIONER: May I see Exhibit A for identification, Mr. Clerk?

EXAMINATION BY THE COMMISSIONER:

Q Have you read Exhibit A?

A I have read it.

Q Had you read it prior to June 23rd?

A No, I had not.

Q What information did you have on the inmate prior to June 23rd and 24th?

A Not too much, sir. Like I say, it was only my own observations up until this letter was received.

Q What you are telling me, it was an instinctive feeling that you had a problem?

A Yes.

Q That being so, Mr. Schlegel, and I may be exposing an over-cautious and timid nature, but when you went to remove this man from the so-called meditation cells --

A Yes.

Q -- to the segregation --

A Yes.

Q -- would you not have thought it a wise precaution to handcuff him before you moved him?

A Well, you have to look at it this way, sir. If we go down there with a pair of handcuffs to handcuff every individual we would take out of there we are infringing on his rights or whatever you may call it. We may take handcuffs with us and when we have a problem or trouble then we put the handcuffs on. Now we are dealing with many many inmates and we can't come down there and think because he is going to be a troublemaker I am going to put the handcuffs on him right now. Then he could say to me why are you handcuffing me right now, I haven't caused you any trouble. So our problem is, it seems to me, like we have to get something like this before we handcuff him to be fair to him, to give him his rights.

Q Even though you were taking him, he knew why he was being taken?

A Yes.

Q And you were moving him to what, probably -- other accommodation . Would it be less desirable from his point of view?

A The desirability wasn't so much in the picture. The

problem where he was, these two inmates banging on these gates was causing the whole cell block to get going. Now, sir, I could have went in and handcuffed Harwig and yet I didn't, because to my knowledge they were going to come out.

Q Thank you. Now then, with respect to mace, do you have mace available at the Institution?

A They have it. We do have a type of gas. I am not sure if it is mace or not. It is a gas.

Q Do you know the effects of mace, ever experienced it?

A No, I haven't myself.

Q Ever experience the effects of tear gas?

A Yes.

Q Now, to get mace issued does anything have to be signed?

A We did at one time have some mace in the cell blocks more or less as a protection for the officers in the evening which had been under the control of the senior officer. It would be locked up. It wasn't just anybody could get ahold of it.

Q Well, if you did take mace down into the segregation or isolation cells would there have to be a signature given to obtain it?

A Would be the senior officer who would have it. So he wouldn't have to have a signature. He would be the only one that would have it.

Q You being a senior officer, could you have had it?

A I could have.

THE COMMISSIONER: That is all.

MR. SCOTT: Mr. Commissioner, I have one question.

THE COMMISSIONER: Certainly.

CROSS-EXAMINATION BY MR. SCOTT:

Q The handcuffs, who placed the handcuffs on the prisoner Rocheleau?

A We were all helping. It was actually Mr. Anderson that actually did the actual handcuffing. I had hold of one arm, Mr. George had hold of another and it was Mr. Anderson who did the actual handcuffing.

Q These are handcuffs that --

A Regular handcuffs.

Q -- they interlock, they can be --

A Yes.

Q -- squeezed in varying degrees of a centric circle?

A Yes.

Q Yes. Now, when Rocheleau was taken down to the segregation cells who escorted him into the cell, did you?

A We all three were together. I can't --

Q All three of you took him to the cell, right?

A Yes.

Q Did you take the handcuffs off?

A We took his handcuffs off once he was in the cell, yes.

Q Now, did you notice whether or not those handcuffs made any sort of marks on his hands?

A I couldn't tell you right now, no.

Q Couldn't?

A No.

Q Do you know whether the handcuffs were --the degree of tightness that the handcuffs were placed around his wrists?

A I couldn't tell you.

MR. SCOTT: Thank you.

EXAMINATION BY THE COMMISSIONER:

Q A further question Mr. Schlegel. Where you took him was this an open area, that is there were cells?

A Yes, there are six -- eleven cells on the side. Where he was put there are 11 cells altogether.

Q Tell me, do these cells connect with one another at all?

A Back to back, sir.

Q In other words, is the partition solid or is it a bar?

A Bars.

Q Between these cells?

A All bars.

Q All bars. So then I take it that if gas was used in the cell it could go from one cell to the other?

A If we used --

Q Yes.

A Oh, yes.

Q And so in the hypothetical situation outlined by Mr. Meurin if gas was used there is nothing to contain it to one cell?

A No, and then we would have the gas ourselves.

Q That was my next question. You didn't have gas?

A No.

THE COMMISSIONER: That is all. Anything arising out of that, gentlemen?

MR. PEACOCK: Thank you, Mr. Schlegel.

A Thank you.

(Adjournment)

MR. PEACOCK: I will call Carrol Anderson.

CARROL EDWIN ANDERSON, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Anderson, you are a Correction Officer 3 at the Calgary Correctional Institution?

A That is right.

Q And you were so employed on June 24th, 1973?

A I was.

Q Could you tell us what occurred and what your involvement was in relation to an incident involving inmates by the name of Harwig and Rocheleau on that date, please?

A Coming into our duty in the afternoon shift I was called at the guard room at approximately 3:20 or 3:30 p.m.

by Mr. George from the cell block stating that inmates in the segregation area or meditation area were creating a disturbance by shouting and banging. I took this report from Mr. George. I then contacted Mr. Schlegel, who was the senior office on duty at that particular time, and reported the incident to him. After having discussed it with Mr. Schlegel it was decided by Mr. Schlegel and myself that we should move Harwig and Rocheleau from the meditation cells to the segregation cells.

Q What was the purpose of doing that?

A The purpose of moving them was to take them away from the large body of inmates whom they were disturbing at that time.

Q What occurred then?

A Mr. Schlegel and myself went to the cell block. We discussed the situation with Mr. George and we then went down to the meditation cells.

THE COMMISSIONER: I prefer segregation.

A Pardon?

THE COMMISSIONER: I prefer segregation.

A You would like that?

THE COMMISSIONER: Rather than meditation.

Q MR. PEACOCK: Just for clarification, is it not -- are the cells under the guard room called segregation cells?

A Yes, sir.

Q And the cells under the cell block are called meditation cells?

A Yes, sir.

THE COMMISSIONER: One is isolation and the other is -- I don't like that term meditation. I think that becomes hypocritical.

MR. PEACOCK: All right. I am wondering if we -- do we distinguish between the two?

MR. SCOTT: I would suggest we call it the hole.

THE COMMISSIONER: I am sure you would, Mr. Scott, but I am not prepared to go that far.

Q MR. PEACOCK: Well, we will proceed. Quite frankly I am prepared to accept anything, sir. In any event, you are talking about the cells which are in the lowest part of the cell block?

A Yes, sir.

Q All right. And you went down there and this is where Rocheleau and Harwig were at that time, is that correct?

A Yes, sir.

Q And who went down to that part of the Institution at that time?

A Mr. Schlegel, Mr. George, Mr. Sharp, Mr. Rice and myself.

Q All right. When you got down there would you tell us

what happened?

A Well, when we opened the door to go into the segregation area there was quite a noise. There was banging and shouting and pounding on the doors. I believe it was Mr. Schlegel who opened the cell where Harwig was and he was brought out and Mr. Sharp, I believe, took over from there on escorting Harwig to the segregation cells under the guard room.

Q Now, when Harwig came out of his cell did you observe anyone using any force on him?

A I did not, sir.

Q When he got into the hall did you observe anyone use force on him?

A No, sir.

Q Was he kicked or pushed along the hallway?

A He was not, sir.

Q Where were you at this time?

A After getting into the hallway I was with Mr. George and Mr. Schlegel escorting Rocheleau down the north hallway.

Q All right. Now, before you got there Mr. Rocheleau had to be gotten out of his cell?

A Yes, sir.

Q Did you observe him coming out of his cell?

A I saw him coming out of his cell, yes, sir.

Q How was he coming out?

A He was coming out on his own, sir.

Q I see. And from the time when Rocheleau came out of his cell until you got to the stairway was any force used by any of the guards on Rocheleau as he came out?

A No, sir.

Q Was he pushed or kicked on his way down the hallway?

A Which hallway, sir?

Q I am sorry, the hallway in front of the segregation cells?

A No, sir.

Q All right. Now, you got to the stairs and got up into the main hall?

A Yes, sir.

Q Was any force used on either Harwig or Rocheleau that you saw coming up the stairs to the main hall?

A There was no force used on either one of them, sir, until Harwig -- or Rocheleau was going -- moving very reluctantly down the hall, and when we reached the area directly in front of the barber shop Rocheleau stopped. Mr. Schlegel and Mr. George took him by the arm and pushed him, pushing him down the hallway, and he turned around and struck Mr. George in the face.

Q Did you see this happen?

A Yes, sir.

Q What did he hit Mr. George with?

A He hit him with a fist, sir.

Q Did Mr. George or Mr. Schlegel hit Mr. Rocheleau before this?

A Not that I saw, sir.

Q What happened then?

A Rocheleau became very violent. He knocked Mr. George down when he struck him. He started swinging and kicking. He was using all types of tactics. We then grabbed Rocheleau, took him down on the floor and held him. I called somebody, I don't know who, to bring a set of handcuffs.

Q And were they subsequently brought?

A Yes, sir, they were.

Q Were they given to you?

A They were given to me, sir.

Q At this time was Rocheleau on the floor?

A At this time Rocheleau was on the floor being held by Mr. George, Mr. Schlegel and myself, sir.

Q What happened when the handcuffs came?

A When we got the handcuffs we had quite a struggle to get him cuffed. He was still fighting and kicking, striking out with everything. We got him turned over and I cuffed him, sir, put the cuffs on him.

Q Did you put the cuffs with his hands behind or in front of him, do you recall?

A Behind him, sir.

Q Behind him?

A Yes, sir.

Q I take it you then acccompanied him down to the segregation area under the guard room?

A Yes, sir.

Q And he was put in a cell?

A Yes, sir.

Q Was any force used on him from the time you got him up, put the handcuffs on him, until you put him in his cell?

A We had to hang onto the cuffs -- I hung onto the cuffs and Mr. George and Mr. Schlegel had to hold him by the arms. He was still fighting and struggling as much as he could with his hands cuffed.

Q When you got him into the cell did you take the cuffs off?

A Yes, sir.

Q Was his door then locked?

A It was locked.

Q Now, coming out of that area was there some incident involving other inmates in the cell block that you recall?

A Which area are you referring to, sir?

Q Down in the segregation area underneath the guard room.

A There was shouting from other inmates, yes, sir.

Q Do you recall any -- Mr. Schlegel or Mr. George going into a cell down there?

A No, sir.

Q Did any of you have instruments which would spray gas when you were down in that area?

A No, sir.

MR. PEACOCK: Answer other counsel, please, Mr. Anderson.

CROSS-EXAMINATION BY MR. STILWELL:

Q I am testing these handcuffs to make sure they will open. I don't want to wear them. Now, these handcuffs appear to have a rachet lock on them?

A Yes, sir.

Q And I take it that when they are put on -- well, let's put one on me just to see how it works.

MR. PEACOCK: The Inquiry is taking a favourable turn, sir.

Q MR. STILWELL: Now, that is the normal way you would put it on?

A Yes, sir.

Q Now, I suggest if that is just banged against my body or against anything else it will keep tightening and tightening?

A Yes, sir.

Q Nothing to stop it?

A Unless you lock it, sir.

Q And you wouldn't have had time to lock it, would you?

A Yes, sir.

Q Now, can you get it off me? No, don't lock it, Unlock it. Now, that thing will keep tightening up as long as it is pushed, won't it?

A Yes, sir.

Q And when you were putting that on he was struggling, was he not?

A Yes, sir.

Q You notice that even that small amount of pressure has left a mark on my wrist?

A Yes, sir.

MR. STILWELL: That is all, thank you.

THE COMMISSIONER: Your stoicism is noted, Mr. Stilwell.

MR. SCOTT: Perhaps Mr. Stilwell might like to come back in five or six weeks and see if the marks are still there.

CROSS-EXAMINATION BY MR. SCOTT:

Q Let's just go to the point where you are escorting this prisoner down the hallway, that is Rocheleau, in front of the barber shop. You said that George was on one side of Rocheleau. Which side was he on?

A I don't know which side he was on, sir.

Q Mr. Schlegel was on the other side, was he?

A Yes, sir.

Q No question about that?

A No, sir.

Q Where were you?

A I was at the back of him, sir.

Q You were directly behind him?

A Yes, sir.

Q Okay. Who opened the door to Harwig's cell?

A Mr. George has the keys to the doors, sir.

Q So he opened both doors, did he?

A As far as I know it was Mr. George.

Q Do you recall seeing Harwig leave his cell? Did you actually see what took place in the cell and see him get up and walk out?

A No, I didn't, sir.

Q Did you see what took place in the Rocheleau cell and see him come out?

A I saw Rocheleau come out. I didn't see what was going on in the cell.

Q Did you see Harwig actually come out of his cell?

A Yes, sir.

Q Pardon me, I am sorry?

A Yes, sir.

Q You did. And you saw Rocheleau come out?

A Yes, sir.

Q But you didn't see either of them in their cells?

A No, sir.

Q You applied the handcuffs? I take it when you were applying them you weren't taking any note? In other

words, you weren't concerned about whether or not there was too much pressure being exerted on this man's hands, this wasn't a prime concern of yours, was it, you just slammed them shut, didn't you?

A I didn't just slam them shut. I put them on and closed them, sir.

Q Now, this guy he was kicking and you stated he was using all sorts of tactics?

A Yes.

Q He was jerking and moving around, isn't that right?

A Yes, sir.

Q I suggest to you that you weren't carefully considering how tight you were shutting these things, you shut them like that, didn't you?

A I don't know what you are getting at, sir.

Q Well, I am getting at --

THE COMMISSIONER: Don't worry about it. Just answer the question.

Q MR. SCOTT: I will say it to you. I suggest that you put them on too tight.

A No, I did not, sir.

Q Okay. You would agree with me though that if these handcuffs were tightened to a sufficient degree that they could leave marks on a person's hands or on his wrists?

A Oh, yes, sir, handcuffs will leave marks at any time.

Q In fact Mr. Stilwell has shown us that point.

A Yes.

Q Now, is it also true that they could cause cuts into a persons' hands, into his wrists?

A If they are fighting it, yes, sir.

Q Not if they are fighting it. I am suggesting they could do it if they were tight enough regardless of --

A If you close them tight enough, yes. But you would have to close them very tight.

Q I don't know if we need an actual demonstration as to how this man was locking them tight as my learned friend Mr. Stilwell has innuendoed, but in any event --

THE COMMISSIONER: Mr. Stilwell will be glad to show you.

MR. SCOTT: We could have a visual experience. No, that is fine, I don't think --

Q MR. SCOTT: Now, did you at any time see either Mr. George or Mr. Schlegel strike Rocheleau?

A No, sir, I did not.

Q And I take it you didn't strike him?

A No, sir, I did not.

Q And nothing happened when this man was kicking? You said he used tactics, he was violently resisting, is that right?

A Yes, sir.

Q And in these circumstances nobody tried to hit him or

knock him out or anything of this nature?

A No, sir. He was taken down on the floor, sir.

Q Did anybody,say, place their knee in his back to keep him down?

A That I wouldn't know for sure. We were holding him down. Now, how -- we were holding him on the floor.

Q Nobody struck him at all?

A No, sir.

Q Didn't anybody strike him before he turned around and struck Mr. George?

A Not to my knowledge, sir.

Q Nobody pushed him up against the wall?

A No, sir.

Q Nobody kicked him from behind,sort of in a fashion of moving him along?

A I didn't see anyone do that, sir.

Q You are sure now, sir?

A I am positive, sir.

MR. SCOTT: Okay. That is all the questions I have.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, would the period of time that Rocheleau would have had these handcuffs on be less than 5 minutes?

A Would be approximately 5, 6 minutes, something like that, I would presume.

Q And then they were removed when he was taken to the

segregation cells?

A Yes, they were.

Q Sir, how long have you been a Corrections Officer or employed in that --

A Been a Corrections Officer for 24 and a half years, sir.

MR. MEURIN: Thank you. No further questions.

THE COMMISSIONER: Anything further, gentlemen?

MR. SCOTT: No, sir.

THE COMMISSIONER: Thank you, sir.

MR. PEACOCK: Thank you, Mr. Anderson.

(Witness retires)

MR. PEACOCK: I will call Fred Rocheleau, please.

(Please go to page 853)

FREDERICK ALEXANDER ROCHELEAU,

having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Rocheleau, you presently are an inmate of Calgary Correctional Institute, is that correct?

A Yes.

Q Are you serving a sentence there?

A Yes.

Q What is the sentence in relation to?

A One year.

Q And you have got a one year sentence for what?

A Assault causing bodily harm.

Q When did you first come into the Institution this year?

A Be around May 17th.

Q I see. On June 24th and June 23rd, 1973, were you a resident of the Institute while you were on remand for a court appearance?

A Yes.

Q On the night of June 23rd were you in fact placed down in the segregation cells?

A I am not sure whether it was on that date or not, but it could have been.

Q Well, it was some time around that time you were placed in the segregation cells?

A Yes.

Q Can you tell us what you did before you were placed down there?

A I was in a show on Friday night. One of the other inmates handed me a cigarette and I was smoking and the guard told me to go back up to the cell block, and I -- I refused to go up to the cell block, and then he told me again if I didn't I would be put on charge and go to the hole. So I went up to the cell block, and on my way up one of the guards that were taking care of "A" west at that time asked me what cell I was in. I didn't answer him. I continued on my way down to my cell. When I got to my cell I slammed the door on the cell and he told me "Whenever I ask something you answer me." I turned around and told him I didn't have to fucking well answer him if I didn't want to. So he went and he got Mr. Schlegel and Norm George and they come back up to the cell block and they told me I was going to Warden's Court. When I was -- instead of going to Warden's Court they took me to the hole.

Q And you ended up down in the segregation cells?

A Yeah.

Q Now, I take it you stayed there overnight, did you?

A No, that was down the hole. Segregation cells are a different place.

Q Let's just keep things straight. You were down in the hole overnight, were you?

A Yes.

Q What happened the following day?

A The following day I started having withdrawal symptoms and

I started kicking on the door trying to get it opened.

Q What kind of -- withdrawal symptoms from what?

A Heroin.

Q Were you on heroin at the time you were in there?

A Yes.

Q I take it you were withdrawing because you didn't have any heroin in there?

A Hmm, hmm.

Q Is that right?

A Well, I didn't have any in the hole.

Q When you were down there, and you say the following morning you started to have withdrawal symptoms?

A Hmm, hmm.

Q And you started to kick on the door?

A Yes. It was a useless effort so I went and I laid down, and a little while after Mr. Schlegel and Norm George appeared and told me to get going somewhere and I refused to get up. Told me a second time, and as I was getting up Mr. George attacked me.

Q Mr. George attacked you, did he? And was this right in your cell?

A It was right downstairs in the hole.

Q Had you come out of the cell in the hole when you were attacked or were you still in your cell?

A No, I was still in the cell. I was just starting to get off the bed.

Q And what happened?

A As I was getting up off the bed Mr. Norm George come and grabbed me by the hair and by the arms and pulled me off and I was on the floor and he kept on telling me to get up and he kept on kicking me.

Q Where did he kick you?

A Be around the ankles and in the back.

Q I see. And then he at this time all the time was telling you to get out, was he?

A Yes.

Q Okay. Go ahead and tell us what happened?

A After that kept on shoving me in the hole. And after I got up they kept on shoving me to the top of the stairs. After we got to the top of the stairs they kept on pushing and kicking me along the hall through the gates.

Q Who was kicking you?

A Norm George and Schlegel.

Q And were they kicking you as you were moving along?

A Yes, telling me to hurry up and go faster.

Q Was there another inmate moved from that area at the same time?

A Yes.

Q Who was that?

A I can't recall his name, but I know there was another inmate, but they took him out ahead of me.

Q All right. So you say you were pushed and kicked all the way up the stairs to the main hall, is that correct?

A Yes.

Q What happened when you got to the main hall?

A They continued until I got to the place where the guard has their controls over the gates at the remand and then I turned around and I lost control of my temper at that time and I struck Mr. George.

Q Where did you hit him?

A In the face.

Q What happened then?

A Then I started at Mr. Schlegel and the other guards that were there and just went on and then after they apprehended me Mr. Norm George slapped the handcuffs on me and kept applying pressure to the right wrist which left the scars

Q Before we get to that, you punched Mr. George. Did he fall down?

A I believe he did.

Q And at that point did you engage in an altercation with Mr. Schlegel?

A Yes.

Q And was there another guard there too?

A Yes, there was.

Q All right. Did any of these gentlemen punch you or hit you during this struggle after youhad hit Mr. George?

A Yes. I believe it was Mr. Schlegel had his knee on me. Kept on putting more weight on his knee on my head as I was on the floor.

Q I take it this was after you got onto the floor?

A Yes.

Q Somebody had their knee on your head?

A Yes.

Q Did any of them strike you with their fists during this time?

A No, I don't believe they did hit me with their fists.

Q They ultimately got the cuffs on you?

A Yes.

Q Were you then taken down to the segregation area?

A Then they -- after they got their handcuffs and everything on then they continued pushing and kicking.

Q So I take it you got off the floor at that time and started on your way?

A Yes.

Q They were pushing you again?

A Yes.

Q Were you refusing to move?

A No, I wasn't refusing to move. I was just walking as fast as I could but they kept on wanting me to go faster. I felt I was going fast enough. I was almost running. They just kept on pushing me. The faster I went the faster they went and the faster they wanted me to go.

Q What happened when you got down to the segregation area?

A They went and they locked me up in the cell. Well they told me to get on my stomach so they could take the handcuffs off. Took the handcuffs off and then they closed the door. And Mr. Cater at that time said if there was any more noise out of any of you bastards

down here I am going to deal with you personally.

Q Is that Mr. Cater?

A Yes.

Q There is no doubt he was there?

A Yeah, he was there.

Q Was there any other -- did you observe any other scuffles in that area after they locked your door and started out?

A No.

Q Was there any other fights with any other inmates after that that you observed in that block?

A Yes, I believe there was. There was one in the next cell to me that Mr. Schlegel and Cater were in and I couldn't really see because the wall was in between.

Q What divides the cells there, are they bars or walls?

A Well, there is walls on both sides and then there is bars where the doors --

Q I see. Is there a wall between your cell and the one next to you?

A Yes.

Q Can you not see into the next cell?

A No.

Q Did you hear anything or see anything or what did you hear from the next cell?

A I couldn't see anything. All I could hear was the other inmate screaming and apparently they used

mace on him.

Q Well, did you see them use the mace?

A No, I did not.

Q Did any of the mace or the gas come into your cell?

A No.

Q Did you hear what was said while this was going on next to you?

A No, I can't quite remember.

MR. PEACOCK: Answer the other Counsel please.

CROSS-EXAMINATION BY MR. STILWELL:

Q Whereabouts were you when you hauled off and hit Mr. George?

A I was in the hallway right at the remand centre just as you come out of the gate by the guard's cubicle.

Q Excuse me for a moment. I show you a picture here, it is #20, Exhibit #20. And see if you can find the place where you hit Mr. George.

A Be right by the mop. That is right by the guard's cubicle. Be right here.

Q Hold that up and show --

THE CLERK: Show the Commissioner please.

THE COMMISSIONER: Thank you.

Q MR. STILWELL: Were you in jail at Regina in the last year or so?

A Yes.

MR. STILWELL: May I have Exhibit A for Identification? That is it.

Q MR. STILWELL: When were you in Regina Correctional Centre?

A I believe that would be in April.

Q April of this year?

A Yes.

Q What were you in there for?

A That was for drunken driving and driving while suspended.

Q How long were you in there?

A That was for thirty days.

Q Did you ever talk to a counsellor or a social worker by the name of Jim Graham there?

A I don't believe so.

Q Did you ever talk to any social workers there?

A Yes, I have.

Q What is the name of the social worker?

A I don't remember their names.

Q How about Shiplack, does that sound like the right name?

A Shiplack, yes.

Q Do you think that was the man you talked to there?

A I talked to Shiplack about native project.

Q I'm sorry, didn't get that.

A Native project.

Q What is he, a native court worker or counsellor?

A He was a native court worker.

Q Does he work for the Department of Social Services in the Province of Saskatchewan?

A Yes, he does.

Q I suggest that while you were in there for that thirty-day hitch you had twelve different kind of trips to the Warden's Court?

A Yes.

Q Is that correct?

THE COMMISSIONER: Are you seeking to have that marked, Mr. Stilwell?

MR. STILWELL: Sir, I think I have now sufficiently laid the foundation, because in the letter this Mr. Shiplack is named.

THE COMMISSIONER: Yes, I think you have.

MR. SCOTT: I would like to see this again and read it.

MR. STILWELL: Read it aloud.

THE COMMISSIONER: Mr. Stilwell, for the moment I will call it Exhibit A for Identification. Is that information from the social worker?

MR. STILWELL: It appears to be. It is signed by a person who characterizes himself as Counselling Supervisor.

THE COMMISSIONER: I will tell you what

bothers me, and that is that this person as Counselling Supervisor is no doubt attempting to assist this inmate, and there is no doubt he was an inmate in that Correctional Centre and there is no doubt left him with the impression that he was being assisted, and certainly it does concern me that it now appears to be turned against him. However, this is an Inquiry and --

MR. STILWELL: Well, sir, it is not a matter to be dismissed lightly. I see your point, but there is an ethical problem here.

THE COMMISSIONER: Yes, there is.

MR. STILWELL: The fact that social workers are oblivious to ethical problems doesn't mean we should be.

THE COMMISSIONER: Precisely, sir.

MR. STILWELL: It may be that the information was elicited from this witness on the understanding that it was confidential.

THE COMMISSIONER: Gives me great concern. I would rather you didn't push it.

MR. STILWELL: I was going to say, sir, I resign from my previous position.

MR. SCOTT: I take it then this will not be a formal exhibit?

THE COMMISSIONER: That is right.

MR. SCOTT: Thank you.

CROSS-EXAMINATION BY MR. SCOTT:

Q Mr. Rocheleau, it is your testimony then that -- today that you were struck by Mr. George while you were in your cell, is that correct?

A Umhm.

Q Now, you have referred to kicking and pushing. Did this kicking and pushing continue from the point that you -- well, right from the point you were in your cell all the way up to the point that you turned around and struck Mr. George?

A Yes, and then even after that it continued.

Q When you say pushing, what type of pushing do you mean?

A Both hands just coming with their force head on like that.

Q Where were they striking you?

A Well, the same time as I was going on the other two guards were kicking me and --

Q Where were these pushes hitting you then?

A Pardon?

Q Where were they pushing you? Were they hitting you in the shoulders, the back?

A Would be in the back.

Q And the kicks, where would the kicks be landing on your body?

A The kicks would be landing on the heels or just

above the heels and in the back leg muscles.

Q They were in the back of your legs, is that right? Now, about these handcuffs we have heard about today, you said that you had -- that the handcuffs were administered -- I understand that they were -- your hands were placed behind your back, is that right?

A Umhm.

Q Also you said in the examination by Mr. Peacock that Mr. George applied pressure to one of them?

A To the right wrist.

Q To the right wrist?

A Umhm.

Q Now, did that handcuff cause any marks on your wrists?

A Yes, it did.

Q Are the marks still there?

A Yes.

Q Would you please show them to the Commissioner and anyone else who wants to look at them. If other counsel wish to. Now and this incident -- these marks are caused by the incident of June 24th, is that right?

A Yes.

Q Now, were you struggling to get away? Could they have been caused by your banging your hands against your back as you were moving?

A No, when they put them on they put the one on it was loose, in fact it could have fallen off my hand. The other one George, Mr. George just kept on applying pressure, tightening it, cutting off circulation.

Q Did Mr. Schlegel or Mr. George or any officer for that matter say anything to you when they came into the cell?

A No, they just told me to get up off my bed and that I was going somewhere.

Q You don't recall where they said you were going?

A No.

Q And you refused, did you?

A Yes.

Q Why did you refuse?

A I didn't really -- they couldn't have put me in any worse place than I was already in so I didn't figure there was any sense in going anywhere.

Q Why did you then decide to get up?

A When he told me the second time -- I don't know, just got up.

Q And it was at that point that you were first struck --

A Yes.

Q -- when you were getting out of your bed. How many times were you say kicked?

A Several times.

Q Would it be more than two?

A Yes.

Q And was this just by Mr. George?

A No, it would be my Mr. Schlegel and the other guard who was there.

Q I am talking about in the cell.

A In the cell? No, it would be by George.

Q Only Mr. George?

A Yes.

Q And then you were subsequently kicked on your way up --

A Yes.

Q -- the stairwell and towards down the hallway, is that right?

A Yes.

Q Did they at all tell you where you were going at that point?

A They just continued pushing me onto segregation.

Q Did they push you out of the cell?

A Well, pulled me.

Q Pulled you out. Okay.

MR. SCOTT: Thanks, that is all the questions I have.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, when you were down in the hole as you call it or the cells below the cell block were you banging on your door at any time?

A Yes, I was.

Q How long did you bang?

A Be for twenty minutes.

Q I take it that you would have been making a considerable racket in doing that?

A Just steady pounding.

Q Steady pounding. Was Harwig doing it too?

A I couldn't say for sure.

Q Somebody around you in the adjoining cells doing it?

A Well, after I started it continued.

Q After you started what continued?

A Well, doors being banged.

Q So there were other doors being banged as well?

A Umhm.

Q Now, sir, you have talked about withdrawal symptoms. Is that why you were pounding?

A Yes, I just wanted to get out of the hole.

Q I take it that you would be in sort of an ugly mood, would you?

A In a way, yes.

Q Is that something that you had to undergo before drying out like that?

A No, it was just -- the fact was when I was thrown in there there was just a closed-in place and I -- I just couldn't stand it.

Q No, I think perhaps you missed the point of my

question. On that occasion is that the first time that you had had to dry out?

A Yeah.

Q It was. Is that correct, it is the first time that you had dried out?

A Yes.

Q It was something then that you had never undergone before?

A No.

Q And it really upset you?

A I could have been upset about different things.

THE COMMISSIONER: I'm afraid I didn't hear you, Mr. Rocheleau.

A I could have been upset about different things.

Q MR. MEURIN: Well, had you ever been in any cell similar to this before?

A No. I have been in cells with the front bars on them but never been in any closed-in cells.

Q Well, I believe you stated in answer to a question by Mr. Stilwell that you were brought up for Warden's Court something like twelve times in Regina, is that correct?

A Their hole isn't like this.

Q Their hole isn't like that. It has bars on the front?

A Yes.

Q Sir, could you give me an indication of what these

charges were when you were in Regina?

A I believe one was for trying to get at a guard. The other ones were for refusing cleanup.

Q What about this thing of a guard? Now, could you be more specific as to what it involved with the guard?

A Well, a guard put me on charge and it wasn't really for any reason. Just because I refused to clean, that there was cleaners for the dorm, and I wasn't the cleaner for the dorm, so I refused.

Q Didn't any of your charges involve any violence?

A There wasn't any violence on the guard.

Q There wasn't anything to do with an assault on a guard?

A No.

Q Did any of your charges in Regina involve weapons?

A A couple of them did, yes.

Q What in particular?

A A knife.

Q What did you do with that knife?

A I used it on a few inmates and --

THE COMMISSIONER: What was the weapon?

A It is a knife.

Q Where did you get the knife from?

A From the kitchen.

Q Had you adjusted it or altered it in any way?

A Yes, I gave it to one of the other inmates to take

out and to get a grindstone.

What did that do?

A Put a razor-sharp edge on it.

Q MR. MEURIN: Sir, when did you start suffering from these withdrawal symptoms that you have mentioned?

A Just after I came to Calgary.

Q What did you do in requesting medical attention for it?

A I went to the psychologist and went to the -- Mr. Taylor, and my offer was turned down. Mr. Jackson is the one who referred me to see a psychiatrist, a psychologist.

Q He referred you to the psychologist. Sir, the day before this incident the incident that caused you to go down into the hole that involved a guard by the name of Sharp, is that correct?

A No.

Q Wasn't this a Scottish fellow?

A I can't really recall the guard. But always in the gym because there are four guards in there, and it was in the dark.

Q I'm not talking about the guard in the gym. I'm talking about the guard that was back at your cell in the cell block when --

A Yes, that would be Sharp.

Q That would be Sharp. Now, did you raise your fist at him?

A No, I didn't.

Q You did not?

A No.

Q You didn't tell him to fuck off?

A I could have told him to fuck off, yes.

Q But you deny that you raised your fist at him?

A Yes.

Q Sir, did you ask for any medical attention for this mark or marks that were left on your right hand from the cuffs?

A No, I didn't.

Q Why not?

A Well, all it was was just a cut. It wasn't really all that bad.

Q Sir, I've noticed some tattoos on your left hand. Is that correct?

A Yes.

Q How did you get those?

A I put them on when I was in Regina Correctional Institution.

Q Would that involve needles or something that you have sharpened to a needle-like edge?

A No, you just use needles like you use for sewing.

Q Were you ever charged with that at all in Regina?

A For putting on tattoos?

Q No, having contraband that you used to put on tattoos.

A No.

Q Did you make any statement to Mr. Schlegel sometime after this incident where they took you into the segregation area? Do you recall speaking to Mr. Schlegel?

A Yes, I did put in a request to see Mr. Schlegel for special letters and that.

Q Did you tell Mr. Schlegel at that time that you now had your head screwed on right, or words to that effect?

A No, I didn't.

Q You deny that you ever made such a statement to Mr. Schlegel?

A How do you mean by head screwed on?

Q Well, I am using words, sir, from testimony that has been given already at this Inquiry and there --

A Did I say that I had my head screwed on?

Q No, the statement is to the effect that you saw Mr. Schlegel at some time after this incident on the 24th of June and at that time you told Mr. Schlegel you now had your head screwed on right.

A No, I didn't.

THE COMMISSIONER: Mr. Rocheleau, did you say that to him at any time?

A No, I didn't.

Q MR. MEURIN: Sir, have you spoken to a guard by the name of Rice?

A Yes.

Q Have you spoken to him in the last week or so?

A Yes, I did.

Q Did you make any statements to him to the effect that you had nothing to lose anyway and that is why you refused to go?

A Yes, I did.

Q Because they couldn't do anymore to you. Now, sir, when you were being taken down the hall with the handcuffs on behind your back is it not true that you were still kicking and struggling?

A No, I wasn't.

MR. MEURIN: I have no further questions.

RE-EXAMINATION BY MR. PEACOCK:

Q Now, one question I have, Mr. Rocheleau. You indicated that when this thing was all over you had the marks on your wrists from the handcuffs?

A Yes.

Q Did you have any other injuries?

A I had a sore shoulder.

Q And did this shoulder get hurt -- do you recall if it got hurt when they were trying to put you on the floor after you hit Mr. George?

A Yes.

Q You didn't suffer any other cuts or bruises down in the hole area?

A No, I didn't. It was just the scars on my right wrist and my shoulder that was sore, and whenever I go to lift weights now it still seems as though it is out of place.

Q Have you sought any medical treatment for your sore shoulder?

A Yes, I did. I got x-rays taken.

Q I see. Do you know when that was?

A It was just shortly after this incident happened.

MR. PEACOCK: Okay. Thank you.

MR. SCOTT: I was just going to ask Mr. Rocheleau --

CROSS-EXAMINATION BY MR. SCOTT:

Q When you went and saw Mr. Schlegel what did you say to him, did you discuss this incident or was it even raised?

A It wasn't even raised. The only time that anything even come up was when mentioned -- I believe it was yesterday when he mentioned about the charges and then he kind of brought that up, where about being charged in the cell block, and I wasn't even remanded.

Q This was yesterday you discussed it with Mr. Schlegel?

A Well, he just brought the subject up. I never said nothing about it.

MR. SCOTT: I see. Thank you.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Rocheleau, you have said that you were withdrawing from heroin when you were in the segregation cells and because of this withdrawal that was one of the reasons that you hammered on the door, is that right?

A Yes.

Q Can you tell me how many caps a day your habit was?

A Around four.

Q Four caps a day. And I also noticed that you said you couldn't get any heroine in the segregation cells.

A Umhm.

Q Were you getting it before you went into segregation cells?

A I had it --

MR. SCOTT: Mr. Commissioner, I am not objecting to the area that you are pursuing. The only problem that I face is this, my client --

THE COMMISSIONER: All right, you've got protection now.

MR. SCOTT: Yes, we want to make sure, because there could be some statements made that are -- I want to make sure he is protected from any

future proceedings.

THE COMMISSIONER: Let me be clear on this then. You are then objecting -- advising him at this stage not to answer and I of course advise him that any answers that he does give -- I am directing him to answer and he will therefore immediately have the protection of the Canada Evidence Act and the Alberta Evidence Act.

MR. SCOTT: With all due respect your authority, sir, --

THE COMMISSIONER: I quite appreciate that I can't give it to him --

MR. SCOTT: My only suggestion to you -- I have no objection to this man answering these questions. This is an Inquiry which perhaps -- and these in fact are quite serious questions. But I want to make sure that on a very cursory basis -- in other words, you have decided today that this man has the protection of the Canada and Alberta Evidence Acts, but in law will he have it? What if we have subsequent charges?

THE COMMISSIONER: I think the authorities are clear that I can't give it and I can't withhold it, but if he objects to answering and I direct him to answer then he automatically has the protection of both Acts. Now, there is a practice growing up in

this province that once an objection is raised, -- once he objects to answer and I direct him to answer well, certainly for that question and answer he has the protection. And as I say the practice has grown up where if it is agreed by all parties that the objection is deemed to be taken to each question and to each answer then the protection automatically flows. That is certainly the position I take here. Your point is well taken and I commend you on it. Has anybody any objection?

MR. MEURIN: Sir, I have no objection to the general procedure. I'm not aware of the authorities in this area so far as they relate to the Canada Evidence Act, and with all due respect I am not certain at this time that you can give that --

THE COMMISSIONER: I can't give or I can't withhold. I can only take the position that one, Mr. Scott I take the position has now objected to asking these questions, I take it the witness has declined to answer. Well, I now order him to answer, and the answers he gives from hereon in are deemed to be answers to questions to which he objects to answer. Therefore, the protection flows from that.

MR. MEURIN: I have no objection to the general procedure, sir.

MR. SCOTT: The only thing that comes to my mind again is simply this, and perhaps I would

ask that the reporters not -- well, not report this particular portion. If you wish to have an adjournment I am prepared to discuss it. But my problem is this on behalf of this young man, if this man makes statements and he is extended the protection of the Act according to your position, sir, but let's hypothetically say that the Royal Canadian Mounted Police get wind of this, they came swooping in and arrest this man for an offence related to his testimony today. They then come in and they use his sworn testimony as evidence against him. You have extended him the protection of the Act, but is a Judicial Court, is a Court going to say well, Mr. Harradence did, but that is too bad.

MR. PEACOCK: No, I think I can answer that. The public Inquiries Act in essence elevates you to the position of a judge, and I just read Section 4.

> "The Commissioner or Commissioners shall have the same power to enforce the attendance of persons as witnesses and to compel them to give evidence and to produce documents and things as is vested in a Court of record in civil cases, and the same privileges and immunities as a Judge of the Supreme Court of Alberta."

Now, I suggest that if a Judge of the Supreme Court of Alberta can take proceedings which will afford a gentleman the protection of the Act certainly you

can, and whether or not you can I agree with you, and I can't cite cases, but I have certainly seen cases, and I believe our appeal division is one of the Courts which has held it, that the moment he objects, once he has objected, if he answers he has that protection and the testimony cannot be used in any subsequent proceedings.

THE COMMISSIONER: Was that your problem?

MR. SCOTT: My main problem is to ensure that this is a proceeding under which we have this type of protection, and Mr. Peacock has cleared it up.

THE COMMISSIONER: I didn't realize that was your problem.

EXAMINATION BY THE COMMISSIONER:

Q You understand that any answers that you give to me that you have the protection of the Canada Evidence Act. What that means is that what you tell me here today cannot be used against you. Do you understand that?

A Yes.

Q You say that you had a habit of about four caps a day?

A Yes.

Q And you also told me that you couldn't get heroine in the segregation cells and I drew from that, sir,

that you may have been able to get heroine in the cells that you had been removed from. Am I correct in that?

A Yes.

Q How much did you have in with you?

A Fifty, sixty caps.

Q Of heroine. And can you tell me whereabouts you had that in the cell?

A I didn't keep that on me. I had it with another inmate.

Q I won't ask you to reveal his name. And I take it then that you were -- was he supplying you with your daily --

A No, I had that come in with me when I come in from Regina.

Q Then you gave that to another inmate once you got into the Spy Hill Institution?

A Yes.

Q But you were still able to get what, four caps a day from that inmate?

A Well, I wasn't using that much because I knew after I run out of that --

Q It would be pretty tough?

A Yes.

Q How many caps a day were you taking while you were in the Institution in Spy Hill?

A Two.

Q Two caps a day. And how did you take that, can you tell me?

A In a syringe.

Q In a syringe. Where did you keep the syringe?

A I had that with one of the other inmates too.

Q Where would you get your fix, what part of the Institution?

A Where did I get it?

Q Where did you take your fix, in the cell?

A Yes.

Q How was the syringe given to you?

A Brought in.

Q How did he get it to you?

A He was a cleaner.

Q Passed down the cell. Now then I take it that the symptoms hit you then when you were put into the cell?

A Yes.

Q Into the isolation cell. How long were you in the cell before it hit you?

A Well, from the time I was put in there until the time when it started.

Q Now then I take it then as long as you were on your two caps a day you wouldn't really show any signs of withdrawal?

A Well, I was bitchy.

Q Yes, but aside from that would -- two caps a day

would sort of keep you?

A Keep me.

Q How long had you been on this four caps a day?

A Well, I just started about November.

Q You wouldn't start on four caps a day?

A No.

Q What did you start on?

A Just a little bit under a half.

Q Then by May you worked up to four caps a day. Tell me were you getting heroine in the Regina Institution also?

A Yes, I was.

Q When you came in with sixty caps did you come in from Regina Institution with sixty caps?

A Yes.

Q Now then when you were -- these withdrawal symptoms, would you have a clear recollection as to what took place?

A My nerves and everything just started giving out. I just started spinning off.

Q You just spun out?

A Just like as if the room kept on getting smaller and smaller.

Q And you just had to get out of there, is that it?

A Yes.

Q Now, that would affect all of your senses, would it?

A Yes, it would.

Q Now then, these kicks that you talk about as you were going down the hall, would they be more annoying and infuriating than they would be harmful?

A When they were kicking me it was hurting. It hurt for a couple days after. Any place where they kicked me.

Q And did you ask for any medical attention after you were removed from the segregation cells?

A No, I didn't. I just asked to get my shoulder x-rayed.

Q Was that the only injury that you complained of was your shoulder?

A Yes.

Q Now, you have told me that you got a knife. Was it the dining room in Regina Institution?

A Yes.

Q And you gave it to another inmate to have it ground?

A Well, Regina Institution all the inmates carry their own silverware in their cells.

Q You had your knife then?

A I didn't have mine. I got one of the others from the kitchen.

Q And you had an edge put on it. And did you bring that knife with you from the Institution?

A No.

Q You left it there?

A Umhm.

Q Pardon?

A Yes.

Q Why would you have that knife sharpened?

A Well, if you are going to use it on another inmate or whoever it was, if you are going to do it to, whenever it is not sharpened --

Q It is not going to be very effective if it isn't sharpened, is that it?

A Yes.

Q Why would you use it on another inmate, sir?

A Could be a rat or a skinner.

Q No question about it, this type of knife is used on rats and skinners in an Institution, isn't it?

A It is in most Institutions.

Q Have you used that knife on a rat or a skinner?

A I have used it on one or two.

Q Where?

A In Regina.

Q I see. That was because they were -- they were rats or skinners?

A Either that or else didn't get along with them.

Q How old are you?

A Eighteen.

Q Where were you born?

A Prince Albert, Saskatchewan.

Q Ever have a job?

A Yes.

Q Doing what?

A Janitor at the Husky Tower here in Calgary.

Q Is that the first job you got?

A Yes, it was.

Q How tall are you?

A About five foot eleven.

Q What do you weigh?

A A hundred and sixty.

Q A hundred and sixty.

THE COMMISSIONER: Any questions arising out of that?

CROSS-EXAMINATION BY MR. MEURIN:

Q You indicated you lift weights, sir?

A Yes.

Q I take it you like to keep in good shape?

A Well, I haven't been lifting weights for the past month or so. I go down there occasionally.

Q I am sorry. Continue.

A I go down during gym time and lift some weights.

Q I take it that we could say you are fairly strong then?

A Your opinion.

Q I don't know exactly how to put it. I guess you

are not a fellow that they would kick sand in your face anyway if you were on the beach?

A I guess they would be taking chances at that time.

Q Okay. Now, sir, as far as the heroine that you brought into the --

THE COMMISSIONER: I take it there's also objection to answer. I will direct him to answer.

MR. MEURIN: Very well, sir. Getting into the area of heroine I know that.

Q MR. MEURIN: As far as the heroine that you brought in you brought that in from the Regina Institute into the Calgary Institute?

A Yes.

Q Would it be fair to say that you had to do that secretly or without any of the guards knowing?

A Well, as far as I know none of the guards knew about it.

Q You certainly made every effort to conceal it from them?

A It was under their noses. Whether or not they knew it was there I didn't know that they knew. If they did they didn't do nothing about it, if they did know.

Q Well, sir, after you got the heroine into the Calgary Institution you have indicated that you did not keep it on yourself or in your own cell,

you had somebody else keep it, is that right?

A Yes.

Q Why did you do that?

A Well, because in Regina Institution my cell was always being checked for knives and whatnot and I always had another inmate hanging onto things like that.

Q Sir, I'm not going to ask you who this other inmate was in Calgary, but let me ask you whether or not he kept this stached for you willingly?

A It wasn't willingly. He was getting some of it.

Q You pressured him to, didn't you?

A No, I didn't.

THE COMMISSIONER: He said he was getting some of it. I believe he had an incentive.

A Was taken care of.

Q MR. MEURIN: I take it that between the two of you you were doing your best to make sure that the guards didn't find out about it?

A Umhm.

Q Is that correct? The Court Reporter can't take down the nod of your head.

A Yes.

Q At no time have you ever known any of the Correctional Officers or guards or prison staff in the Calgary Institution to either approve of or wink

their eyes at or encourage you to have drugs or anything of that nature?

A Well, there are guards that you can make deals with and there are guards that you can't.

Q Well, sir, are there guards in the Calgary Institution that you can make deals with?

A That I will not answer.

Q You will not answer?

EXAMINATION BY THE COMMISSIONER:

Q Why won't you answer?

A Well, I don't feel that I should answer it.

Q Well, I tell you we have an Inquiry here, trying to get to the root of many things. I am sure you want to help this Inquiry, don't you?

A As far as I know there are not any guards that I have had any dealings with or I know of any inmates making deals with.

Q You know of none personally?

A No.

THE COMMISSIONER: I don't think I will ask him to reveal what took place between other inmates.

MR. MEURIN: I think it is getting speculative.

THE COMMISSIONER: Maybe getting speculative, but he may have to answer to these other inmates.

Q MR. MEURIN: Sir, what were your withdrawal

symptoms after you were placed in this segregation cell below the guard room? Did they continue then?

A No, I didn't feel so closed in because they had the bars out in front and I could more or less see what was going on and I could hear what was going on.

MR. MEURIN: Sir, I find myself in some difficulty at the present point so far as the allegation that guards or some of the officers will connive at or make deals with respect to drugs. Now, as counsel for the Senior Officers of the Institution I think there has been an allegation that we have bad apples. Now, I have an obligation I think to my client that if this kind of thing is occurring as senior administrators they have an obligation to stamp it out, if there are bad apples to get rid of them. On the other hand I can appreciate his concern for his own safety. I think I would like to leave it on the basis that we will consider our position, if necessary have the right of recall of this witness.

MR. SCOTT: I would like to have a word --

THE COMMISSIONER: Sit down just for a moment. Now, Mr. Meurin, as I recall the evidence of this

witness it is he personally has made no such arrangements with any custodial officer. He says he knows of some with other inmates. Now, in view of his situation and in view of the seriousness of these allegations my concern would be that it would be hearsay evidence of the rankest kind. It will be hearsay evidence which would not only put this young man in serious personal danger but it would also indicate perhaps by innuendo the names of other officers, and I don't believe that would be proper at this time. If somebody will come forward and say I made a deal with Correctional Officer so and so, then most certainly I would like to hear that evidence. But under this Inquiry I do have the scope that I can make evidence -- I can admit it. I can give wide latitude or I can be pretty strict. In this case I am going to be very strict.

MR. MEURIN: Very well. I appreciate and respect your position. However, I do wish the record clear that we are not condoning this type of thing.

THE COMMISSIONER: The Chief Inspector or anyone -- he may require to look into this. That is another matter. But certainly for the protection of this inmate and for the protection of Correctional Officers I am not going to allow evidence which is

not trustworthy.

MR. MEURIN: That is satisfactory. Like I say, I just don't want the implication left --

THE COMMISSIONER: No.

MR. MEURIN: -- we are leaving a stone unturned.

THE COMMISSIONER: I am aware of the innuendo and implication.

MR. PEACOCK: Just to clarify, all of these witnesses are subject to recall.

THE COMMISSIONER: Certainly.

MR. PEACOCK: And if this witness has something to say relating to the matters in question -- at this stage it would seem if there are guards doing this perhaps a separate Inquiry should be called with respect to it.

THE COMMISSIONER: At this point I think we are investigating excessive use of force.

MR. PEACOCK: When the question comes to this man being recalled, I mean if that is relevant to what we are talking about.

THE COMMISSIONER: May well be. Although there is one question I am going to ask him before this session terminates.

EXAMINATION BY THE COMMISSIONER:

Q How did you get sixty caps into the Institution?

A The R.C.M.P.

Q Can you help me a little on that?

A Well, they had my property.

Q What did your property consist of?

A Comb and watches and other property I had on me inside the Calgary Institution.

Q Tell me, where was the sixty caps? I want your help. Where were they?

A They were inside the wallet.

Q Inside your wallet?

A Umhm.

Q You are certainly not suggesting the R.C.M.P. knew they were in your wallet?

A No, they didn't.

Q Was your wallet not searched?

A Nothing was searched.

Q Pardon?

A Nothing was searched.

Q I am sorry?

A Nothing was searched that I know of.

Q Now, were you brought from the Correctional Institution in Regina to the Correctional --

A Yes.

Q By the R.C.M.P. Regina R.C.M.P.?

A Umhm.

MR. SCOTT: I just want -- basically

we are inquiring into excessive use of force. Very difficult and serious matters which he has answered, and candidly now I want to just ask -- clarify a point that may have been shall I say clouded in the examination and cross-examination, and that is the question of this man's capability to appreciate what was being done to him at the point that he alleges he was assaulted.

THE COMMISSIONER: I will give you full range.

CROSS-EXAMINATION BY MR. SCOTT:

Q You did answer the Commissioner to the effect that your senses were affected by these withdrawal symptoms, is that right?

A Yes.

Q Notwithstanding the fact that they were affected and you were shall we say in an agitated state I want you to be sure because of the fact that we are inquiring into serious matters, are you sure that you were kicked in your cell?

A Yes.

Q Is there any doubt in your mind at all?

A No.

Q You can recall it totally?

A Yes.

Q That is there is no doubt at all. Is there any doubt in your mind that you were pushed and kicked

in the heel and calf areas of your legs on your way out of the cells and throughout the --

A No, there is no doubt.

Q There is no doubt at all. I take it that you can recall these things well, can you?

A Yes, I can.

MR. SCOTT: Thank you.

THE COURT: Thank you, gentlemen. Thank you, Mr. Rocheleau.

MR. PEACOCK: Thank you, Mr. Rocheleau.

MR. STILWELL: I have no further questions to ask.

THE COMMISSIONER: Perhaps this witness should withdraw, Constable.

(Witness retires)

MR. STILWELL: Just so that everyone understands I would like to recapitulate what you have already said, and that is that hearsay is no evidence at all and the present position is that there is no evidence before this Commission any guards have been engaged in any corrupt dealings with prisoners.

THE COMMISSIONER: No question about that, sir.

MR. SCOTT: I would like to make this point. It was Mr. Meurin's question raised this particular point and, of course, Mr. Meurin is acting

on behalf of the senior officials. I think that the position that was taken by the Commissioner, by yourself sir, is a correct one in particular because not only will this man's perhaps safety be affected but any suggestion that any officer and naming that officer could be most serious, and I think when we are getting into that area we have to abide by very strict rules.

THE COMMISSIONER: That is why I made the ruling.

MR. SCOTT: Exactly. I just wanted to say on behalf of the prisoners I concur.

THE COMMISSIONER: Thank you.

MR. PEACOCK: I think perhaps I should say something.

THE COMMISSIONER: Feel free.

MR. PEACOCK: That is the last of the witnesses for today. We have several more with respect to this one incident and I believe three more incidents, and then whatever you decide after that. We had proposed to adjourn until the 29th, but in view of the fact of our progress being relatively slow I think we should announce to everyone we are going to reconvene on the 22nd of October, which is a Monday. I'd better make sure that is the correct date.

THE COMMISSIONER: It is.

MR. PEACOCK: Monday the 22nd, and the Hearings will resume for Monday and Tuesday and Wednesday of that week. We will adjourn Thursday and Friday. And we will reconvene the following Monday and hopefully complete the Inquiry during that week.

THE COMMISSIONER: Hopefully. We will adjourn until the 22nd then at ten o'clock.

(Hearing adjourned)